IMT Nuremberg Archives

H – 198

International Court of Justice

H0198 - 0002

Official Transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 6 August, 1946, 1000-1700, Lord Justice Lawrence presiding.

THE PRESIDENT: The Tribunal will sit in closed session on Thursday afternoon. That is to say, it will not sit in open session after one o'clock on Thursday. It will sit in open session on Saturday morning until one o'clock.

PAUL HAUSER --- Resumed

DIRECT EXAMINATION - Continued

BY DR. PELCKMANN:

Q. Witness, was the Waffen SS a special fighting unit for the combatting of partisans, and was the fight against the partisans considered to be a war of extermination?

A. The fight against partisans is a rather general military political measure. Front troops of the army, as well as of the Waffen SS, were used with special exceptions if they were found in the rear areas. In the operational area there were no partisan fights on the whole. Usually they took part in the rear areas only. First of all, this fight was the task of the Sicherungs Divisions, Security Divisions, of the army and special defense battalions, and besides that, of special police troops. Units of the Waffen SS at the front were not especially trained to this kind of fighting. Panzer divisions of the army were not used for this kind of fighting, either. In the East, units of my division were never used in the fight against partisans at any time. Therefore it was not a special task for SS units, and they had not been trained or selected for this purpose especially.

H0198-0003

Q What relationship existed between the Waffen-SS on one hand and the Sicherheitspolizei and Ordnungspolizei, and the so-called Einsatzgruppen and the Einsatzkommandos?

A These various branches of the organization of Heinrich Himmler, unfortunately, wear the same uniform even though they wear different insignia. The common point was the head--Himmler. The various branches were completely separate from each other. The separation was intensified more and more during the war. Units of the Waffen-SS were under the command of the Army Officers. The other branches were subordinate to Himmler.

Q Did you hear anything about the SD-Einsatzgruppen?

A They were used in the rear areas alongside the secret police. I never had any contact, any personal contact with the various branches. Therefore, I cannot give you any information as the activity.

Q Is it therefore true that only during your arrest did you hear anything at all about the participation of small units of the Waffen-SS?

A Yes. Only during my arrest here did I hear of these matters.

Q Did the Higher SS and Police Leader belong to the officers corp of the Waffen-SS?

A The Higher-SS and Police Leader did not belong to the Waffen-SS. They had no authority to command and they had nothing, whatsoever, to do with us.

Q Did the Waffen-SS furnish the guarding units and the so-called Kommandantur personnel in concentration camps?

A Units guarding the concentration camps and the personnel in the Kommandantur did not belong to the Waffen-SS. Only in the course of the war, these units were designated as Waffen-SS in order to give them freedom to carry out their police duties The members of the Waffen-SS considered this measure a deliberate deception on the part of Himmler. They only learned of it after the war. It did not have anything to do with the men of

H0198-0004

the concentration camp.

Q It is not quite clear, Mr. Witness, just what you meant when you said that these men were made free from military service so that they could do police duties.

A All persons who served at home and in the police had to be relieved of military service in order to carry out their police tasks. That did not apply in all the units. In the main offices in Berlin, therefore, these units were considered and designated as nominal Waffen-SS. All of those things I learned later.

Q The prosecution asserts that the Waffen-SS was only a part of the whole SS organization, and that as such, it was needed for the carrying through of the total criminal conspiracy. Please comment on this.

A I believe that it can be seen from all of my testimony that the Waffen-SS was a completely separate and independant unit and connected with other organizations only through the personality and person of Heinrich Himmler. This separation of the various branches undoubted intensified itself during the war. Therefore, we can not be accused of having had criminal plans or of having participated in carrying them through.

Q But you felt yourself to be a part of the Army?

A We have been completely incorporated into the Army, and the conception of serving as the fourth branch of the army; that was not generally known, but that fact did apply.

Q Apart from the accusation concerning the concentration camps, the Prosecution further asserts that the Waffen-SS, on the basis of its training, was a particularly cruel military tool and that is to be shown, allegedly, by the participation of the Waffen-SS men in the evacuation of the Warsaw Ghetto. The Prosecution further asserts that violations against International Law also applied in this case such as the murder of prisoners of war. Is that correct?

A I already testified, yesterday, that our training was

H0198 - 0005

not marshalled to that end. Our method of fighting was supervised and approved as suggested by the Army, and we were not successful and did not gain prestige through cruel methods. The Commanders supervised with that idea in mind. They had personal pride in seeing a clean fighting unit participating in the evacuation of the Warsaw Ghetto and in the execution which took place in Bohemia and Moravia. These matters I only hear about here. In this connection we can only be concerned with small parts of replacement units who temporarily were subordinated for a brief period of time. Unfortunately, during my arrest I heard of two trials against two members of the Waffen-SS. One of these proceedings has not been concluded as yet, and in my own mind, I cannot quite define my means.

Q You mean the killing of prisoners?

A Yes.

Q These incidents are not the result of training, but rather the falling by the wayside of personalities, the giving away of nerve when those people were deep in enemy territory. But these are matters which will never be thrown in the face o f the general membership, even if it had not been two but rather ten cases either in the relationship or the ratio as applied to the entire membership of the Waffen-SS of a million men. This ratio would mean there would be one case as against 100,000 men in the membership. These happenings are the result of the intensification of combat on the ground and in the air during a long war; happenings which have taken place on both sides always have taken place and always will take place. You cannot hold them, the bulk of the SS, responsible.

Q What effect did Heinrich Himmler have on the internal attitude of the members of the Waffen-SS?

A Heinrich Himmler, most assuredly, tried in peacetime to create an influence. During the war this was impossible. He did not address troups of the Waffen-SS. On occasion he talked to some officers or commanders in the field. It was

H0198 - 0006

generally known that Heinrich Himmler, who probably was only a soldier for one year, was completely alien in his relations with troups. He underestimated the importance of these tasks. That was well known. He liked to play the role of the strong man through exaggeration and through superlatives. If someone comes along with big words, the soldier does not pay much attention. In that way the influence of Himmler was very insignificant during the war. We wore his uniform of course, but the Waffen-SS created their won models of behavior through working with them day by day.

Q Perhaps it was the influence of Himmler and the Commanders that was very strong?

A Quite the contrary. The Commanders, of course, were under him so far as military obedience is concerned. But the matter of critiques that was exercised with them was ideology. That was a possibility that was given them. It existed expecially in regard to his extravagant and romantic ideas. These men had enough experience and knowledge of live so that his speeches could be transmitted and reproduced in the language of the soldier. The critical attitude toward Heinrich Himmler increased during the war. A soldier believed he could do without such advice. Objections were cut off short with words that it is a typical attitude taken by the general staff. This was something which he fought against.

Q Is it correct that Heinrich Himmler, in his speeches sanctioned excesses against Jews and Slavs?

A I only know the speech of the year 1943 at Kharkov in which speech he mentioned three points, which, of course, called for opposition. His statements which were in very bad taste in regard to the Jews applied only to Germany. We could not recognize any extermination from these remarks. His references to the superior numbers of our enemy was something which could be interpreted by the common soldier that that superiority of our enemy would have to be made up for during battle.

Q. What were the special points of this critique of the officer corps directed against Heinrich Himmler ?

A. He thought that after the war the various organizations which were subordinate to him, the SS and perhaps the police also, could be assimilated into one, to do just the opposite of that which happened during the war, and our intentions were against this intention of his.

Q. How far were the crimes in concentration camps known to the Waffen SS, such as the extermination of the Jews ? I should like to call to your attention that I don't want you to speak for yourself alone as a highly placed general, but I want you to speak for the simple SS man, based on your own experience, of course.

A. It sounds quite impossible, and foreign countries do not wish to believe it, but the members of the Waffen SS as well as myself knew nothing of the crimes of which we heard here. This perhaps may serve as an explanation, that at home only those who had known victims at the concentration camps knew anything about it, only the secret opposition was always prepared to mention rumors. If one of them heard something, he figured he had better evaluate it as hostile propaganda. Foreign raidos or newspapers were not known to him at all, and even at home it was not possible to follow. The bulk of the Waffen SS was set up against the enemy, and sacrifices grew from year to year. We did not have the time or opportunity to check rumors, and I was surprised and indignant about those things which Himmler had done contrary to the things that he had preached to us in peacetime.

Q. Do you know the speech of Himmler's made at Posen in which he mentioned the fact that thousands and tens of thousands of Jews had been killed ?

A. I was not present at that speech at Posen, and only heard of the speech here, during my arrest. As far as I know, the speech was addressed to the leaders at home and in the occupied countries. The members of the Waffen SS were not present at all, or if so, in very, very small numbers.

Q. The unitsfor the guarding of the concentration camps were designated as Waffen SS as well, and rank was given to persons connected with the concentration camp system. Did you know anything about these matters during the war ?

H0198 - 0007

H0198 - 0008

A. I have already mentioned that the designation of the Waffen SS men for supervisory purposes was made known to me only after the war, but I must add that Himmler deliberately confused the limits and demarcations between these varied organizations to the public, and just for that reason there was the designation of the guarding personnel units as Waffen SS and the giving of ranks in the Waffen SS to persons who did not have any connection with the fighting unit itself.

Q. Do you consider that the Waffen SS, in its majority, participated in the crimes which indubitably were committed ?

A. No. The Prosecution chains the Waffen SS to the fate of Himmler and a small cricle of criminals around him. The Waffen SS is taking this quite bitterly for it believes that in its majority it fought decently and fairly.

I should like to ask the High Tribunal to please listen to the statements and the testimony of the front soldiers on your side. I believe that they will not refuse us respect. There were exceptions where incidents like that happened, but the Waffen SS considers it as quite unjust that it is being treated differently from the mass of the German Wehrmacht, and it does not deserve to be outlawed as a criminal organization.

DR. PELCKMANN: Mr. President, I have no further questions to this witness.

CROSS EXAMINATION

BY MR. ELWYN JONES:

Q. Witness, you heard Himmler's Kharkov speech in April 1943 to the commanding officers of the three SS divisions in the East, did you not ?

A. Yes, I heard that speech.

Q. And you remember that he ended his speech by saying :

"We will never let that excellent weapon, the dread and terrible reputation which preceded us in the battle for Kharkov, fade, but will constantly add new meaning to it."

Do you remember him saying that ?

H0198 - 0009

A. Yes, indeed.

Q. And your units of the Waffen SS constantly added new meaning to your reputation for terror, did you not ?

A. No. I have already expressed quite the contrary yesterday and today. I consider it as an insult to say that our successes were dependent on terror. Quite the contrary, I said that our successes resulted from the brave fighting of leader and man.

Q. Yesterday you told the Tribunal that the relations of the Waffen SS with the local population were good, and that your Waffen SS troops did not take hostages nor destroy villages as punishments, or commit war crimes. That was your evidence, was it not ?

A. I said that the relationship were unobjectionable and good, that we did, not displace any population.

Q. I want you to listen now to some documents I am going to put in with regard to the SS generally and with regard to the Waffen SS in particular, first, two documents from your own sources.

MR. ELWYN JONES: The first, my Lord, is Document D-419 to be GB-552. I am not proposing to cross examine the witness as to these numerous document. my Lord. It appears to be the desire of the Tribunal that they should be put in as speedily as possible.

THE PRESIDENT: If they are new documents, you can cross examine him upon them.

MR. ELWYN JONES: If your Lordship pleases.

BY MR. ELWYN JONES:

Q. The first document, D-419 is a report by a General of Artillery named Detzel, dated the 23rd of November 1939, with regard to the internal situation in the Warthegau, western Poland, incorporated into the Reich as the document describes it.

I needn't trouble you with the first page of the document, the report of the 2nd of December and the letter of the 30th of November, but if you read the letter of General Detzel dated the 23rd of November 1939, the second paragraph reads :

H0198 - 0010

"The great work of construction in all spheres is not furthered by the intervention of SS formations who are given special racial political tendency makes itself felt of interfering decisively in all spheres of administration beyond the framework of these tasks, and of forming a 'state within the state'. This phenomenon does not fail to have its effect on the troops, who are indignant about the way the tasks are carried out and thereby generally get into opposition to administration and party. I shall exclude the danger of serious differences by strict orders. The fact that this makes a serious demand on the discipline of the troops cannot be dismissed without further ado."

And then, the next paragraph :

"In almost all large towns, public shootings have been carried out by the organizations mentioned in this, the selection varied enormously and was often incomprehensible, the way it was carried out frequently unworthy.

In some districts all the Polish estate owners were arrested and interned with their families. Arrests were almost always accompanied by looting.

In the towns, evacuations were carried out, during which blocks of houses were cleared at random the inhabitants loaded onto lorries at night then taken to concentration camps. Here also looting was a constant accompanying phenomenon. The quartering and feeding in the camps was such that the Corps chief Medical Officer feared the outbreak of epidemics and thus endangering of the troops.

In several towns actions against the Jews were carried out which turned into the most serious execesses. In turok three SS cars under the leadership of a higher SS leader drove through the streets, on the 30th of October 1939 while the people in the streets were hit on theheads at random with horse whips and long whips. Amongst the victims were also people of German blood. Finally a number of Jews were driven into the synagogue, there had to crawl in between the benches whilst singing, during which time they were continuously whipped by the SS men. They were then forced to take down their trousers in order to be hit on the bare behind.

H0198 - 0011

A Jew who out of fright had dirtied his trousers was forced to smear the excrement into the faces of the other Jews.

In Lodz it has become known confidentially that SS Oberfuehrer Melhorm has issued the following orders :

1) From the 9.11., no unemployment relief may any longer be paid to Poles and Jews, only forced labour is paid for. (This measure has already been confirmed).

2) From 9.11., Jews and Poles will be excluded from the distribution of ration foodstuffs and coal.

3) Unrest and incidents are to be created by provocation in order to facilitate the carrying out of the racial political work.

4) The fire service is to be reinforced immediately in order to prevent undesirable spreading to other objects, in case of chance fires in Jewish and Polish residential quarters and factories."

The rest of the document I needn't trouble you with.

H0198 - 0012

That is an insight into the activities of the SS in Poland in November, 1939.

The next German document is the Document D/578.

MR. ELWYN JONES: My Lord, my attention has been drawn to another sentence in the Document D/419, which I should like to draw the Tribunal's attention to, the last paragraph but one:

"As the military commander of Posen has already reported to the High Command of the army, the men feel very strongly about the disproportion between their pay and the many times higher daily rate of pay of other formations."

The Document D/578 is a report by the German Brigade Commander of the 1st Mountain Brigade, Colonel Pericic. It is dated the 26th of September, 1943. This document, My Lord, will be GB 553. It is a report on the activities of the SS units in the area of Popovaca in Bosnia. I only want to trouble you with the first two paragraphs:

"On the 16th of September, 1943, an SS unit of 80 men marched from Popovaca to Osekovo for the compulsory purchase of cattle. I was not notified by anybody about the arrival of this unit in the technical operational area of the 1st Mountain Brigade and about the activity of this unit in the area, for which I alone am responsible.

"A short time after their arrival in Osekovo this unit was attacked by partisans. Under the pressure of the numerically superior partisans, this unit had to retreat in the direction of the railway station, which they succeeded in doing, but they had four men seriouly and several lightly wounded, among them the unit commander. One man was missing, and they also lost an armoured car. The unit commander then reported from Popovoco by telephone that when he had to retreat, he had killed all persons who were in the open because he had no chance to distinguish between the loyal population and the Partisans. He himself said that he killed about 100 persons in this incident."

Now I want to put in some documents from the victims of some of these atrocities, first from the Yugoslav delegation, the Document D/945.

H0198 - 0013

BY MR. ELWYN JONES:

Q. Witness, you appreciate that the Prinz Eugen Division was a division of the Waffen SS, do you not?

A. (No response)

THE PRESIDENT: Witness, did you hear that question?

BY MR. ELWYN JONES:

Q. Witness, I asked you ---

A. Yes; this division does belong to the Waffen SS.

MR. ELWYN JONES: The Document D/945, My Lord, will be GB 554. It is an extract of the report from the Yugoslav State Commission for Ascertaining the Crimes of the Occupiers and their Accomplices. I want to read the second and third paragraphs:

"'In accordance with the order of the commander of the 118th German division, an SS battalion of the 'Prinz Eugen' division and a battalion of the 'Teufels Division' under the command of the German Lieutenant Colonel Dietsche carried out on the 27th if March, 1944, and on the following days a 'purge action' from Sinj in the direction of the villages of Otok-Ruda-Udovicic-Krivodol-Vostane-Grab.

"'On the 28th March this SS battalion overran the villages of Otok Cornji Ruda and Dolac Dolnji one after the other and carried out horrible massacres, destructions by fire and looting. These beasts murdered on a single day in the three above-named Dalmation villages 834 people -- apart from grown-up men, also women and children -- set on fire 500 houses and looted everything there was to be looted. They removed rings, watches and other valuables from the dead bodies. The mass slaughter was carried out in all the villages in the same horrible manner. The German soldiers gathered women, children and men in one place and the opened fire on the crowd with machine guns, threw bombs at them, looted their property and set them on fire. In the House Milanevic-Trapo 45 burned bodies were found. In another house in the same village of Otok 22 unburned corpses were found in a pile. In the village of Ruda they collected all the people in one place and killed all of them. Those who happened not to be collected were killed when they were found. Not even the

H0198 - 0014

smallest babies at their mothers' breasts were spared. In some places the victims were soaked in petrol and set on fire. They also killed those who offered them hospitality out of fear. They also killed those people who were forced to follow them to carry their ammunition and other things. According to the evidence of reliable witnesses, the massacres were prepared beforehand, and this all the more so as the above mentioned villages gave no reason whatsoever previous to the 'purge action' for any kind of reprisals...'"

That report is signed by the President of the State Commission, Dr. Dusan Nedeljkovic, University professor.

The the document D/940, which will be GB 555, which is another extract from the Yugoslav State Commission report signed by the same President of the State Commission, Dr. Dusan Nedeljkovic, on The Crimes of the 7th SS Division, "Prinz Eugen" in Crna Gora (Montenegro); it reads:

"The various German divisions operating in the area of occupied Yugoslavia marked their path by traces of devastation and annihilation of the peaceful population which will testify to the criminal character of the German conduct of the war for many years to come. The operations of the German divisions were in reality primitive expeditions. They destroyed and burnt down whole villages and exterminated the civil population in a barbarous manner, without any military necessity whatsoever.

"The 7th SS Division, 'Prinz Eugen', is famed for its cruelty".

Then I go on to the next paragraph:

"Wherever it passed -- through Serbia, through Bosnia and Herzegorina, through Lika and Banija so through Dalmatia -- everywhere it left behind scenes of conflagration and devastation and the bodies of innocemt men, women, and children who had been burnt in the houses.

"At the end of May 1943 the division 'Prinz Eugen' came to Montenegro to the area of Miksic in order to take part in the fifth enemy offensive in conjunction with the Italian troops. This offensive was called Offensive Black by the German occupying forces. Proceeding from Herzegovina parts of the division fell upon the peaceful villages of the Niksic district: Gornje, Polje, Rastovac, Orah, Granic, Praga, Jasenevo Polje, Duge, and Dubocka.

H0198 -0015

"Immediately after its invasion, this formation, opening fire with all its arms, commenced to commit outrageous crimes on the peaceful villages for no reason at all. Everything they came across they burnt down, murdered, and pillaged. The officers and men of the SS division 'Prinz Eugen' committed crimes of an outrageous cruelty on this occasion. The victims were shot, slaughtered and tortured, or burnt to death in burning houses. Where a victim was found not in his house, but on the road or in the fields some distance away, he was murdered and burnt there. Infants with their mothers, pregnant women and frail old people were also murdered. In short, every civilian met with by these troops in these villages was murdered. In many cases, whole families who, not expecting such treatment or lacking the time for escape, had remained quietly in their homes, were annihilated and murdered. Whole families were thrown into burning houses in many cases and thus burnt.

"It has been established from the investigations entered upon that 121 persons, mostly women, and including 30 persons aged 60-92 years and 29 children of ages ranging from 6 months to 14 years, were executed on this occasion in the horrible manner narrated above.

"The villages -- "; and then follows the list of the villages. Then over on the next page:

"For all of these most serious war crimes those responsible besides the actual culprits -- the members of the SS Division 'Prinz Eugen' -- are all superior and all subordinate commanders as the persons issuing and transmitting the orders for murder and devastation.

Among others the following war criminals are known: SS Gruppenfuehrer and Lieutenant-General of the Waffen SS Phleps, Divisional Commander; Major-General of the Waffen SS von Oberkamp, Ritter Karl, Commander of the XIII Regiment, later Divisional Commander; Major General Schmidthuber, August, Commander of the XIV Regiment"; and then there follow the names of about another ten high ranking German SS Regimental and other commanders.

THE PRESIDENT: Shouldn't you ask whether they are Waffen SS?

BY MR. ELWYN JONES:

Q. Those men, witness, were members of the Waffen SS, were they not?

H0198 - 0016

Just look at the names.

A. I know part of these names. They were leaders --

Q. Let us take them in turn: Phleps, Divisional Commander?

A. Yes.

Q. He was one of your colleagues in the Waffen SS, was he not?

A. Yes.

Q. Major General of the Waffen SS von Oberkamp -- he was in the Waffen SS, was he not?

A. I know the next few names: Oberkamp, Schmidthuber, and Diltsche. The rest of the names I do not know.

Q. But you do not deny, from the description of them, at any rate, that they were officers in the Waffen SS?

A. I would assume so, even though I do not know what the origin of this report is. These are most likely reports which originated in an oral manner and were they put into this form.

Q. I won't trouble you with the value of the reports as documents, witness. That is a matter for the Tribunal.

Now I want you to listen to documents which I am putting in on behalf of the Polish delegation, again relating to the SS.

The first series of documents relates to the shooting of hostages on the command of SS functionaries and by SS men. The first is Document 4041 PS, which will be GB 556, which consists of 31 posters for the years 1943 to 1944, signed by the Chief of the SS and Police in Warsaw, or in some cases by the Commander of the Security Police and of the SD for Warsaw, announcing the killing of hostages.

MR. ELWYN JONES: The Tribunal will see that in those frim records of murder there are listed varying numbers of the victims of the Nazi occupation. In Poster No. 25, for instance, on Page 16, there is a list of 270 hostages.

H0198 - 0017

On Poster 29, page 20, there are 200 shot hostages; Poster 31, page 26 there are 100 shot hostages. These SS shootings were certainly not an original SS conception. I hand in the two documents, 4039-PS and 4039-PS which are —

THE PRESIDENT: Mr. Elwyn Jones, I think you should ask the witness or put it to him, whether there is any connection between the Waffen SS and this document.

MR. ELWYN JONES: If Your Lordship please.

THE WITNESS: Unfortunately I have an English copy before me. I am not completely conversant with the English language and could not follow the question, but I gat er that these measures which took place in Warsaw as well as in the case of the first document whic dealt with the Warthegau, the Waffen SS had nothing to do with this matter here.

THE PRESIDENT: ..ait until you are given the proper copy.

MR ELWYN JONES: I am not suggesting, naturally, My Lord, that all the documents I am putting in relate only to the Waffen SS branch of the SS organization. The whole prosecution's case is based on the theory that there was a unity between the various sections of the SS.

THE PRESIDENT: Yes, but you should give him the opportunity of making his point if he wishes so.

MR.ELWYN JONES: Yes, My Lord.

BY MR. ELWYN JONES:

Q. Have you had an opportunity of looking at those posters now, Witness ?

A. I have seen that the signatures show them to be only SS and Police Leaders, which had nothing to do with the Waffen SS, as I have already state earlier today; and the same applies to the incidents in the Warthegau where, in November of 1939, units of the Waffen SS were not stationed. As to these documents, the Documents 3 and 4 apply to the Waffen SS only where they mention the "Prinz Eugen" Division. I cannot check the data there. I have never been to the Balkans.

THE PRESIDENT: Was the "Teufel" Division also part of the Waffen SS ?

THE WITNESS: No. There never was a "Teufel" Division .

H0198 - 0018

BY MR. ELWYN JONES:

Q. You say there never was a "Teufel" Division in Jugoslavia ?

A. Not in the Waffen SS , no.

MR. ELWYN JONES: I shall call some subsequent testimony with regard to that, My Lord, if the Tribunal would allow me, at a later stage, to cross examine on the whole question of the unity of the SS. It would involve putting in old documents and I understand that there was a certain reluctanc on the part of the Tribunal to permit me to do that; but I should be quite content to drawthe Tribunal's attention.--

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal doesn't desire you to cross examine but only not to read out and put to the witness documents which have already been put in; you can put the facts which are in the document to the witnessfor the purpose of cross examination.

MR. ELWYN JONES: If Your Lordship pleases. Then at a later stage in my cross examination I will return to that subject if the Tribunal permits me to do so. I should like to put these documents in first if I may.

THE PRESIDENT: Mr. Elwyn Jones, I think the only way the Tribunal meant was that it didn't want you to put long passages or short passages fro documents which the witness has never seen and which are already in evidence that you may cross examine the witness upon any document apart from that.

MR. ELWYN JONES: If Your Lordship pleases. Then I shall return to cross examination on this general issue after I have put these documents in if I may My Lord.

I put in the documents 4038-PS and 4039-PS, GB-557 and 558, which show that the SS shootings in Warsaw were a continuation of the practice of the civil power of the Government General from the period March 1941. I needn't trouble the witness with those documents.

Then the document D-956 which will be GB-559 which is an official Polish report on German Crimes in Poland. I only desire to draw the Tribunal's attention to an entry on page 184 of that report relating to the shooting of hostages, which says that the approximate number of Poles killed in Warsaw from the beginning of the public executions until the rising, from October

H0198 - 0019

the 5th 1943 until August the 1st 1944, was about 8,000 most of whom had been caught in manhunts in the Warsaw streets.

DR. EELCKMANN: Your Lordship, may I be permitted to make a reference to the method of procedure ? Mr. Jones said that this document which he was submitting to the High Tribunal he could not submit to the witness. However, I am of the opinion that a submission of documents is possible only at this stage in connection with the cross examination, and that means for the looking into the question of whether the witness is actually creci Otherwise, the prosecution could bring any incriminating material without any connection into this thing, and I should like to ask other wise to give the witness an opportunity to define his attitude and comment.

MR ELWYN JONES: I have no objection at all, of course, to the witnes seeing all the documents, I was only, in the interest of time, referring to one sentence in this document which the witness heard interpreted, and I should have thought that was sufficient; but by all means, I should let the witness see all the documents.

THE PRESIDENT: Dr. Pelckmann, the Tribunal has already ruled that these documents can be put in in this way, and Mr. Elwyn Jones is referring to specific passages in the documents and you have the opportunity of re-exa nation and you have a copy of the document, and that way you can put any question you would like upon the document when you come to re-examine.

MR. ELWYN JONES: I next present some documents relating to atrocitie committed by the SS in connection with the destruction of Warsaw. First is the document 4042-PS, which will be GB-560, which consists of three affidavits from another official Polish report entitled "The German Crime in Warsaw in 1944".

The first affidavit is by the witness Alexandra Kreczkiewicz, wh sta- tes that :"On the 2nd of August the SS men issued an order for us to move to the house across the road; our house, as well as the house next door was set on fire; on the 3rd of August we were informed that we would be shot. Several hundred persons were assembled in the house; on August 4 at 11 a.m. the Termans surrounded the house and gave the order to evacuate apartments.

H0198 - 0020

There were awful cries of children and women and we heard some shots -several persons were killed and wounded at the exit; we were driven to potatoe field and still guarded we were ordered to lie down; there could be no question of escape. A few minutes later we were ordered to get up and we were driven under a bridge which was nearby. At the question of one of the women "where are we being taken to ?", we heard the answer "German women and children are perishing by your fault; therefore, all of you must perish". We were put in ranks and a group of seventy people was separated from us and ordered to go behind the bridge on the hill; the rest, including myself, were put against the war between barbed wires. From different points nearby, we heard shots; we were huddled together and I was on the outer edge of the corwd. At a distance of five meters in front of us, one of the henchmen very quietly loaded his machine-gun; another one was preparing his camera. Several Germans were guarding us; we heard several shots, noises, groans -- I fell down wounded and lost consciousness. After a while I came back to my senses and I heard how they were finishing up the wounded. I did not move and I simulated death; they left one of the Germans on guard and the rest of them went away. The ehnchmen set fire to the huts and the houses in the neighborhood. I was scorched by the heat and almost suffocated by the smoke and my dress smouldered. The German was still on guard, so quietly I tried to put out the fire on me". Then she describes how she ran to a cellar and she says --

THE PRESIDENT: This is a woman is it ?

MR. ELWYN JONES: This is a woman. At the end :" The group of people shot in my presence numbered some 500 persons, of whom no more than three or four managed to escape. All the executioners were SS men".

The next affidavit isfrom the witness Bronislav Dylak, who describes the SS atrocities in a hospital in Warsaw :

"Very badly wounded in the stomach I was hospitalized in the Field Hospital Dluga Street 7. On the 7th of September 1944 the Germans ordered the nurses and those of the inmates who were able to walk to abandon the hospital and the heavily wounded.

H0198 - 0021

I was in this latter group and we stayed in the ward situated in the cellar. In the whole hospital there were a few hundred sick and heavily wounded who could not abandon the hospital. Shortly after the nurses had left the hospital, in the evening the German SS arrived; shooting started. First those were killed who, with a superhuman effort, left their beds and went to the doors and the staircases waiting for the possibility to get out and save themselves. They were immediately killed by the Germans. Two murderers burst into our ward. One had a candle in his hand -- it was already dark. The other was killing, shooting from his pistol the men lying in beds, and shouting 'bandits'. Together with a few of the inmates of our ward, I was saved because the passage to our beds was obsturcted by other beds. Our ward consisted of two different parts; I was in the second smaller part, the entrance to which was obstructed. In the first part, all were killed; the second ward was saved by a pure miracle, maybe because somebody was calling the murderers away. We heard many shots from the other wards. The execution went on throughout the hospital. One of the other many Germans was checking whether everybody was dead. Then we were simulating death; one of my comrades lying near me stained himself with blood on his chest and head and was simulating death. One of the Germans, speaking Ukrainian, went about among the killed and striking them in their faces with his gun. It was a terrible night. During a certain moment a hand grenade was thrown through the window into our ward. Finally the building was set on fire. The fire spread very quickly; those who tried to escape were killed. A woman in our ward tried to push the inflammable stuff away from the exit and to protect the ward from the fire. All other wards, as well as the staircase, were on fire; the smoke the smell of burning corpses, indescribable thirst."

And then the last sentence :"Thus, out of several hundred heavily wounded at the Hospital in Pluga Street 7, only a few score were left alive."

And the third affidavit is by Maria Bukowska, who states that :" On the 7th of August 1944, by order of the SS, the people of the whole district had to abandon their houses which were immediately set on fire." "There were several thousands of us who were driven and pushed about by the SS.

H0198-0022

All who turned to look back, as well as anyone who tried to help, were beaten." And further on in the statement :"We go further on; there is shooting once more. A car full of the SS men approaches; the oficers get out. They inspect us and take away from our ranks three young, pretty girls; two sisters N. and another girl, unknown to me. The car goes away, the girls cry out, trying to defend themselves against the SS men. An old woman falls down, she can't go on any more. An SS officer shoots her in the neck." And then at the last :"In a church at Wola the rest of our belongings is taken away from us. All the young girls, sometimes no more than 12-14 years of age, are left behind, while the older ones, with the children, are led to the western Station and then by railway to Pruszkow."

BY MR. ELWYN JONES:

Q. Those were crimes of the SS, were they not, witness ?

A. That was not the Waffen SS, but that was only a group of men who belonged to Himmler who had nothing whatsoever to do with the fighting groups. We never fought at Warsaw.

H0198 - 0023

Q Are you denying that the Waffen SS took part in the destruction of Warsaw?

A I was never there and therefore I cannot tell you anything about it. But, to my knowledge, there was no fighting there. A riot was quelled there and witnesses have testified....

Q It was a revolt and then the mass exterminations by the SS troops, that's what happened in Warsaw, wasn't it?

A The Waffen SS did not participate, but very few people in the Waffen SS were fighting.

Q My Lord, I wish to present document D-954, which will be GB-561, which are depositions by Professor Tomkiewicz Wladislaw, and Dr. Stanislaw Lorentz of the National Museum in Warsaw, on the looting and terrible, piece-meal destruction of Warsaw by German formations and by SS men. I shall attempt to summarize the documents.

The next document, 2233-DD-PS, is a further extract from the diary of the Defendant Frank showing the cooperation between the SS and the civil power in the courts of this murderous event.

THE PRESIDENT: What's the reference?

MR. ELWYN JONES: 2233-DD-PS, My Lord, GB-562. That is an entry from the diary of the Defendant Frank from the 16th of October, 1944.

"The Governor General receives SS Oberfuehrer Dierlewanger and SS Untersturmfuehrer Ammann in the presence of SS Sturmbannfuehrer Pfaffenroth.

"SS Oberfuehrer Dierlewanger reports to the Governor-General on the employment of his combat group in Warsaw.

"The Governor-General thanks SS Oberfuehrer Dierlewanger and expresses to him his appreciation for the model employment of his combat group in the fighting in Warsaw.

"Lunbh on the occasion of the presence of SS Oberfuehrer Dierlewanger."

Now, Dierlewanger was the Commander of the units operating in Warsaw, was he not?

THE PRESIDENT: Can you offer any evidence as to what units these officers were commanding?

MR. ELWYN JONES: I am just going to put it to the witness, My Lord.

H0198 - 0024

BY MR. ELWYN JONES:

Q Dierlewanger was the commander of the units operating in Warsaw, was he not?

A Dierlewanger was a commander of a parole group, a group from the concentration camp that had to prove themselves. He had no connection with the SS. I did not meet him nor his troops so I could not testify as to that.

Q Were the officers of his unit SS men?

A I cannot give you information as to that for I do not know these units.

Q I see. I shall produce later, documents on this issue -- at a later stage, my Lord.

Now I want to put in evidence a document dealing with the extermination of the Jews by the SS. In this document there is specific evidence that the Waffen SS is included. The first is exhibit D-939, GB-563. That is an affidavit by Izrael Eisenberg, and he states:

" I lived in Lublin and from there I was sent to Maidanek in the beginning of 1942. However, as a prisoner I continued to work for the Germans who employed me as an expert for electro-mechanical jobs in the various SS houses and SS offices in Lublin. I worked as an electro-mechanic in the palace building of the SS and Police Chief Globocnik and in the headquarters of the SS in Lublin, Warshhauer Street 21. The Waffen SS were also there. On the outer wall the notice 'SS-Waffen' could be seen and on the pass which I received at the entrance, the words 'SS-Waffen' were also marked. I knew all the officers, for instance, Oberschaffuehrer Riedel, Rottenfuehrer Mohrwinkel, Unterscharfuehrer Schramek. I know that the leaders of the SS Waffen, as well as the regiment of the SS Waffen whose seat was in the same building where I worked, participated directly in all the expulsions of the Jews from the district of Lublin. In these expulsions thousands of persons were killed on the spot and the rest sent away for extermination. I myself saw how, in the winter of 1941, the 'SS-Waffen' of 21 Warschauer Street participated in the deportation of some hundred Jews to Maidanek, when several persons were killed on the spot. At that time my father was also deported because of his long beard, as this action mainly concerned Jews with beards. I know that Rotten-fuehrer Mohrwinkel directed this action and was promoted to the rank of Unter-sturmfuehrer for it. I worked for the Waffen SS until November 1942, i.e., until

H0198 - 0025

I was transported to Radom. The same persons participate the whole time in all the crimes of the SS in Lublin and district. I wish to point out that these SS men kept their herses in the stables on the airdrome where there was a notice: 'Mounted Regiment SS Waffen.'

Then the next document is D-953, which will be GB-564.

THE PRESIDENT: I think we should give the witness an opportunity to speak about this document if he prefers.

MR. ELWYN JONES: If your Lordship wishes.

BY MR. ELWYN JONES:

Q Witness, you heard me reading the last document. From what you heard him say that the Waffen SS participated directly, and also his reference to the SS Mounted Regiment, the Waffen SS in the Lublin district, those were men in the Waffen SS, weren't they?

A The names that were read off were not officers. Of course, I do not know the names of all units. During the war the men in the Waffen SS were mostly in the front lines, and the front lines were not in Lublin but were more Eastward. The name Mounted Regiment SS Waffen was mentioned, but this might have been the replacement of a Mounted Regiment unit, however, I cannot give you any particulars.

Q Are you seeking to explain that these were employees of the Waffen SS and not members of the Waffen SS because the members of the Waffen SS were at the front lines?

A The tasks of those at the front lines were not the same as the tasks of those in the rear. There were very few in the rear lines because all other units were at the front, and those units at the front were the Waffen SS.

Q This affidavit establishes perfectly clearly thatthese were units of the SS. What other units were there if this wasn't a Waffen SS unit?

A They could have been units of the Einsatz groups who had a task behind the lines.

Q You mean they were masquerading under the name of the Waffen SS?

A Improbable.

Q I want you to turn to another document which might assist you in this matter. D-953, which will be GB-566. The last is GB-565. I beg your pardon, your Lordship, but this will be GB-565. This is an affidavit by

H0198 - 0026

David Wajnapel.

"A few weeks after the entry of the German troops into Radom, police and SS authorities arrived. At the very moment of their arrival, the conditions became immediately worse. The house in the Zeromskist where their headquarters was became a menace to the entire population. People who were walking in this street were dragged into the gateway, and ill-treated by merciless beatings and by the staging of sadistic games. All members of the SS officers, as well as other ranks, took part in this. Being a physician, I often had the opportunity to give medical help to seriously injured victims of the SS.

" After a short time the SS uniform became a menace to the population. I myself was beaten up until I bled, by four other ranks in the street in spite of my doctor's armlet. Later on two ghettoes were established in Radom. In August 1942 the so-called 'deportation' took place. The ghettos were surrounded by many SS units who occupied all the street exists. People were driven out to the streets and those who ran were fired at. Sick people at home or in hospitals were shot on the spot, anong others also the sick people who were in hospital where I was working as a doctor. The total number of people killed amounted to about 4,000. About 3,000 people

H0198 - 0027

were spared and the rest -- about 20,000 people -- were sent to Treblinka. The whole action was directed and executed by the SS. I myself saw that the SS staff were on the spot forming a group and issuing orders. In the streets and in the houses SS men ill-treated and killed people without waiting for orders. After the 'deportation', the remaining group of people were massed in a few narrow lanes and we came under the exclusive rule of the SS and became the private property of the SS who used to hire us out for payment to various firms. I know that these payments were credited to a special SS account at th Radom Bank Emisyjny. We were visited by SS men only. Executions carried out by the SS in the ghetto itself were a frequent occurrence. On 14 January 194 another 'deportation' at Treblinka took place. On 21 March 1943 in the whole district there took place the so-called action against the intelligentsia which action, as I know, was decided upon in an SS and Police Fuehrer's meetin in Radom. In Radom alone about 200 people were shot at that time; among others, my parents, my brother and his nine-months old child met their deaths. On 9 November of the same year all Jewish children up to 12 years of age as well as the old and sick were gathered from Radom and from camps situated near Radom and shot in the biala Street in Radom. Both SS officers and other ranks participated in this. From March 1943 I stayed 18 months in Blizyn camp. The camp was entirely under the SS and the Radom Police Chief's control. Its commandant was Untersturmfuehrer Paul Noll. The guards were composed of SS privates and NCO's. The foreman were Waffen SS men who had been wounded at th front. Both behaved in an inhuman manner by beating and ill-treating us. Shootings of people were frequent occurrences. Originally sentences were pass by the SS and Police Fuehrer, later on by the camp commandant. The SS other ranks knew very well about the bloody deeds which were committed by the SS in Poland, in particular they told me personally about mass murders of Jews on Maidenek (in November, 1943). This fact was no secret. It was common knowledge among the civil population as well as among the lowest ranking SS men. When the camp was taken over by the Maidenek concentration camp, new guards were sent to our camp, but there was no difference between them and the previo ones. In July 1944 the whole camp, including myself, was sent to Auschwitz

H0198 - 0028

camp, which could be entered only by SS men. The conditions of this camp are well known. I escaped during the evacuation of this camp into Germany. On the way, the SS escort machine-gunned exhausted prisoners and later on the rest of the marching column. Several hundred people were killed at that time.

Now, witness, throughout that document the participation of the SS troops is underlined. Do you deny the SS participated in the murders of Jewish people in view of affidavits like that?

A. It is expressly noted here in this document that the Police Fuehrer and the SS are mentioned in those places where the SD worked with the SS, but they had nothing in common with the SS and all examples mentioned by you, Mr. Prosecutor, I must say that only the affidavit by Maria Bukowska and the one about the Mounted Regiment are members of the SS. Beyond that, I cannot tell you of my own experiences.

THE PRESIDENT: Will you read the last paragraph to him?

MR. ELWYN JONES: The last paragraph may help you on this.

"I emphasize that during the few years of war, being a Jew and a doctor, I met a great number of SS men from the Waffen SS as well as other formations and of various ranks, but I must state that I noticed no dofference between them as far as their inhuman attitude towards the civilian population was concerned."

BY MR. ELWYN JONES:

Q. The Waffen SS was always the cause for any of these acts against the population. That was its function, that its whole .....

A. No, it was not the function of the Waffen SS. The Waffen SS was incorporated into the Army.

Q. Did you ever, on this particular point, see Hitler's directive about the future of the SS?

A. I did not understand your question.

Q. Did you ever see Hitler's directive?

A. Directives by Hitler regarding the future of the SS? No, I don't know that.

H0198 - 0029

Q. In that directive which is, I think, familiar to the Tribunal, it is the document D-665, GB-280, Hitler points out that the functions of the Waffen SS are to be the spearhead of Nazism and to be used as an agent for effective acts against resistance at home and against opposition in foreign countries. Did you see those instructions of Hitler's on the role of the Waffen SS?

A. Is that perhaps a directive sent by Hitler to the military offices dealing with the future of the Waffen SS after the war?

Q. That was a directive of 1941 which was distributed to regimental units and was made available to the Waffen SS. I have not got the document available at the moment. Do you say you never heard of that?

A. No, I know only a directive which was an oral one and which contained the intentions of the organization after the war; a directive which went only to the various Army units.

THE PRESIDENT: Perhaps this would be a convenient time to break off.

(A short recess was taken.)

H0198 - 0030

MR. ELWYN JONES: If your Lordship please, I want to make a slight correction of the exact numbers of these documents. The document GB-953 was put in twice as GB-564 and 565. GB-953 will be 564 and the next document D-955 will be GB-565.

THE PRESIDENT: The last document you mentioned will be what -- 564, 565? You mentioned some other document after that.

MR. ELWYN JONES: The next document D-955, which I am just putting in, will be GB-565. This is a final affidavit from a Jewish merchant, Mojzesz Goldberg, and it reads:

"On the 23 June 1941 I was called up into the Soviet army in Lemberg. In the middle of July I was taken prisoner by the Germans. At a locality 5 kilometres from Podwoloczysk the SS companies sought the Jews out of the whole mass of prisoners and shot them on the spot. I remained alive as they did not recognize me as a Jew. I stress the fact that it was the Waffen SS who did this.

"After my captivity was ended, I lived in Radom and worked from June 1942 to July 1944 for the Waffen SS at 3 places; the SS Veterinary Reinforcement Detachment, Kosciuskistreet, the Garrison administration of the Waffen SS, Planty 11 and the Building directorate of the Waffen SS, Slowacki Street 27. As I worked so long for the SS, I know the names and faces of all the offices and NCOs of the above named detachments of the Waffen SS very well. At the head of the SS Veterinary Reinforcement Detachment were Sturmbannfuehrer Dr. Held and Hauptsturmfuehrer Schreiner; at the head of the garrison administration there was Obersturmfuehrer Grabau (at present in Dachau camp) and at the head of the Building directorate Oberscharfuehrer Seiler. All the persons mentioned took a direct part, together with their companies in carrying out the expulsions in Radom on the 5, 16, and 17 August 1942, during which some thousands of people were shot on the spot. I know that the SS Veterinary Reinforcement companies went to the provincial town to carry out the 'expulsions' of Jews. I heard individual soldiers

H0198 - 0031

boasting about the number of Jews they had killed. I know from their own stories that these same companies participated in the actions against Polish partisans and also set the surrounding Polish villages on fire."

BY MR. ELWYN JONES:

Q Witness, do you still say that the Waffen SS had no part in the atrocities that were committed in Poland?

A It is my impression that this document is not credible. How could units of veterinary companies participate in such measures? I can't say any more than that because I don't know the particular units.

Q It is a document by a man who worked for two years for the Waffen SS, who knew them personally, who spoke to them. He is a man of thirty-six years who suffered at their hands and he has mentioned in detail whatever the Waffen SS units are concerned with. Do you still say that the Waffen SS had no part in these matters?

A These are units overlying in the back, who apparently belonged to the Waffen SS and I can't tell you any more than that.

BY THE PRESIDENT:

Q Do you know the names of any of the officers who are mentioned in this letter?

A No.

Q Have you ever been in Radom?

A No.

Q Do you know whether there were Waffen SS at any of these places named in this affidavit?

A I am afraid I didn't understand, your Lordship.

Q Do you know whether there were Waffen SS headquarters of units at any of the places named in that affidavit?

A These units weren't stationed there, belonging to the division in question.

Q Well, the person making the affidavit states the units which were quartered at particular places in Radom and what I

H0198 - 0032

was asking was, whether you knew what units were stationed at those places?

A No, that I cannot say.

BY MR. ELWYN JONES:

Q Witness, you have said that the Waffen SS units respected International Law and committed no atrocities in the field.

With your permission, my Lord, I am now proposing to hand in a summary of the charges submitted to the United Nations War Crimes Commission by the National Commissions of the various countries which suffered at the hands of the Waffen SS. In addition to this summary, I can hand in certified true copies of the charges themselves which set out the facts of the incidents that are complained of. I submit that such charges and such summaries have probative value. It is true that the charges themselves have not yet resulted in trials and that the culprits named have not themselves been tried. The reasons for that are many-fold but I do submit that those summaries of charges have probative value and I invite the Court's ruling with regard to them.

H0198 – 0033

THE PRESIDENT: Perhaps you can tell us a little bit more in regard to the documents you are seeking to put in evidence?

MR. ELWYN JONES: The documents I am seeking to put in evidence are set up under the names of the various Waffen SS divisions, the unit involved, the date of the commission of the offense complained of, the place, the nature of the incident itself, and the source of the information. They are from the files of the United Nations War Crimes Commission, or of a SHAEF Court of Inquiry which put the matter up to the United Nations War Crimes Commission.

THE PRESIDENT: With reference to the evidence, it is only a reference. It does not contain the evidence or summary of the evidence.

MR. ELWYN JONES: It contains the summary of the evidence. The charges which I shall hand in to the Tribunal contain fully the details which I intend to use. There is no objection to your Lordship's looking at one of them.

THE PRESIDENT: Mr. Elwyn Jones, are you submitting the reports under Article 21 in any way ?

MR. ELWYN JONES: They are official reports submitted by the National authorities to the United Nations War Crimes Commission and they embody evidence of witnesses and which are reduced to summary documents formed as charges.

If your Lordship would care to look at one of the charges without prejudice to the question as to whether to admit the document or not, it might be helpful. If your Lordship please, Sir David Maxwell Fyfe is in a position to list the arrangement of the United Nations War Crimes Commission with regard to these charges and it might be helpful to indicate the machinery to the Tribunal.

SIR DAVID MAXWELL FYFE: Your Lordship, under Article 21 of the Charter, it says, the Tribunal shall take judicial notice of official Governmental documents and reports of the United Nations, including the acts and documents of the committees set up in various Allied countries for the investigation

H0198 - 0034

of war crimes. The procedure which was set up was that the United Nations War Crimes Commission under Lord Finley, and later under Lord Reiter, would gather the material, examine it, and send it back to the respective prosecuting nation. The procedure was that the National Office sent a report to the United Nations War Crimes Commission who then considered it and sent it back to the authority in the various countries which dealt with the prosecution of the crimes. My Lordship, what is being put forward at the moment is a synopsis of the report sent by various countries to the United Nations War Crimes Commission, in the form of suggested charges that should be brought and a summary of the supporting evidence. These are available and authenticated, and the document which we should like to use, for the convenience of the Tribunal, is a synopsis of these charges, showing the unit, the date, the place, and incident, and the source, including the United Nations War Crimes Commission files.

THE PRESIDENT: Sir David Fyfe, as I understand what you have said, these documents, of which this is a summary, came forward to the United War Crimes Commission for some action by them for some form of approval, after which they would send them back to the country concerned and would be sent to a Tribunal for trying these individuals which the United War Crimes Commission approved the trial of. This is a summary which has not been approved by the United Nations War Crimes Commission.

SIR DAVID MAXWELL FYFE: They may or may not. It is an early stage of a report of the United Nations War Crimes Commission. Each of the United Nations sent it for investigating and reporting on war crimes. That was an essential step the National Office had first of all, to collect the evidence, put forward the charge, and put forward that report to the United Nations War Crimes Commission. It then came back with an approval or comment by the United Nations War Crimes Commission to the prosecuting authority of the various country. For the

H0198-0035

sake of clarification, if I can give my own case when I was in charge of this: The British National Office was in charge of Sir Thomas Bidion, the Treasury Solicitor, who collected the reports from the various nations. He sent these forward to the United Nations War Crimes Commission. They made their comment. It came back to me and I decided whether there would be a prosecution or not. To my Lordship, I am putting this forward as an authenticated report of the United Nations office. It is the committee which was established to collect the evidence and to forward that evidence to the United Nations body. What we submit is the fact that each of the United Nations, by an authoritive committee, collected the evidence, summarized the evidence, and put it forward, which in its form, does ipso facto give it probative value.

THE PRESIDENT: You say that in Article 21 it says in the following words, documents of the committee set up in various Allied countries for investigation of war crimes ?

SIR DAVID MAXWELL FYFE: That is so, yes.

**** *****

H0198 – 0036

THE PRESIDENT: The Tribunal would like to look at the Document and see just exactly what is its make-up. Do you have an original Document

SIR DAVID MAXWELL FYFE: My Lord, this is one which is certified by Colonel Leningham, the secretary-general of the United Nations War Crimes Commission.

My Lord, here is one which has been accepted by the United Nations War Crimes Commission, as many of them have.

THE PRESIDENT: We have looked at the Document. Now, before the Tribunal adjourns for the purpose of considering this matter, they would hear anything further you wish to say, Sir David.

SIR DAVID MAXWELL FYFE: My Lord, I would call your attention to the number, of course, that had reached the stage of being approved by the United Nations War Crimes Commission. That would be necessary to my argumen

THE PRESIDENT: The summary of your asking is that you wish to mak use of the summary which you have?

SIR DAVID MAXWELL FYFE: I want to make that comment.

THE PRESIDENT: The approval of thedecision rests with the national authority?

SIR DAVID MAXWELL FYFE: When I was the Attorney General, it reste with me. I understand the same procedure is in effect in other countries where it rests with the national authority.

THE PRESIDENT: Yes, Dr. Pelckmann.

DR. PELCKMANN: Whether the evidence which the prosecution will now present is available in the appropriate form and whether as a report fr Allied Government, or from the United Nations War Crimes Commission, it can be used, or whether Article 21 can be applied to it, is something which I cannot judge at the moment. I am leaving that confidently in the hands of the Tribunal. What appears important to me is that according to Article 21 the High Tribunal can take cognizance of that Document, but only during the Prosecutions' presentation of evidence. We are now in themiddle of sub- mitting evidence for the Defense and if the Prosecution are making these reports the subject of their Cross Examination, then there doesnot seem to be any objection to that, according to rules of procedure. But, if it is

H0198 - 0037

only a judicial notice on the part of the Tribunal without making these reports a part of the cross examination, I do not think it permissible for the SS witnesses who are being called to define their attitude to these Documents.

THE PRESIDENT: Isn't that really a matter for theTribunal to decide? It is a matter ofwhether the Documents should be put in now when the witness can comment on them. Whether it comes under Article 21 is a matter to be decided, that is a matter of law. Whether it should be put in now or after seems to be a matter entirely for the Tribunal.

DR. PELCKMANN: It is my impression that it is important, if the High Tribunal will accept these reports as evidence under Article 21, then it is my conviction that they can only accept it since the evidence for the prosecution has been completed, in order to put it before the witness. If the Document is put to the witness, I would consider it just, if, considering the extraordinary tremendous size of the Documents, the Defense would be given sufficiant opportunity to secure the facts for re-examination of the Document. That would take several days. If the Document should be accepted by the Tribunal without examining the witness, that is inadvisable, since the evidencefor the Prosecution has been completed and this would be an inadmissable extension of the material for the Tribunal and this would be a limitation for the Defense.

THE PRESIDENT: The Tribunal will consider what you say, Dr. Pelckmann. The Tribunal will adjourn.

(A recess was taken)

H0198 - 0038

THE PRESIDENT: The Tribunal does not in any way accept Dr. Pelckmann's submission that it is inconvenient or unfair to the defense that documents should be put in at this stage. It considers that in all the circumstances of the case and having regard to the late stage at which the trial has arrived, and having regard to the nature of the document which is offered in evidence by the prosecution, that the Tribunal ought not to admit the document now.

CROSS EXAMINATION --- Continued

BY LT. COL. GRIFFITH JONES:

Q Witness, with what division of the Waffen SS did you serve during the course of the war?

A For two years I led the Second Division and later ....

Q Just one moment. What was it called? What was its name?

A The division later was called "Das Reich" Division. It originally had the name VD Division and beginning 1942, 1944, it was the Second SS Panzer Corps. Beginning in 1944 I was retransferred ....

Q I don't want to leave the"Das Reich" Division for a moment. During what period were you serving with the "Das Reich" Division?

A I donot understand exactly.

Q In what periods were you serving with the "Das Reich" Division? From what date?

A Beginning with the formation in 1939 until my second wound in October 1941.

Q You did not return to serve with that division at all?

A I no longer served with that division because later I was Commanding General and Supreme Commander of the Army.

Q So that the "Das Reich" Division wasthe only division you served with in the field as a divisional commander, was it?

A No, there were others there after me who commanded.

Q But the "Das Reich" was the only division which you commanded personally during the course of the war?

A During the time when I was Divisional Commander I was the only commander.

Q Did you command any other Waffen-SS Division apart from the

H0198 - 0039

"Das Reich"?

A They were changing. Later there were three other divisions which belonged to my Panzer Corps.

Q What were those divisions?

A First of all it was the First Division, the Leinstandarte Corps; second the "Das Reich" Division, and third the Totenkopf Division. Later, in 1944, the 9th and 10th Divisions belonged to it.

Q What were the names of those divisions?

A The names were Hohenstaufen and Goetz von Berlichingen; I beg your pardon, Frundsberg.

Q During what period was the Leibstandarte Corps under your command?

A The Leibstandarte right from the beginning of 1943, say about the end of January, until the beginning of August, was part of my command.

Q From January 1943 to August 1943?

A Yes, that is right.

Q You were in command of that division when it was fighting near Kharkov, you were in command of the Corps, rather, in which the Leibstandart Division was, when it was fighting near Kharkov in the spring of 1943, weren't you?

A The Division was under my command during the fighting around Kharkov, yes.

Q Have you any knowledge of the fact that the town of Staroverovka was burned by the Second Regiment of the Leibstandarte Division?

A No, I know nothing of that.

Q And that that regiment also burned down Stanitschnoje?

A No, that I do not know.

Q And that ti burned down Jefremovka, murdering the civilian population in the spring of 1943, near Kharkov?

A I do not know that and I cannot believe it either, because the fighting at that time did not give enough time for tasks other than military tasks.

Q Fighting did not give your troops time to burn down villages as they went through - are you saying that? That was one of the outstanding

characteristics of your form of warfare on the Eastern Front, wasn't it?

A No, I deny that. The conception of "scorched earth" was not created by us. If villages went up in flames during the fighting that was sometimes unavoidable. I do not believe that the villages were set on fire intentionally because it was in the interest of the operations we were carrying out that these villages had to be retaken.

Q It was because of incidents like those burnings that Himmler was telling theofficers of your three SS Divisionsof the terrible reputation they had created, wasn't it? Those were typical instances of your fame on the Eastern Front, weren't they?

A No, Heinrich Himmler did not say anything about that. He mentioned terror, which I personally refused.

Q The "Das Reich" Division, when was that under your command?

A The "Das Reich" Division was under my command at the same time, say the end of January 1943 until August of the same year.

Q Did you command it subsequently at all, as Corps Commander or Army Commander?

A Afterwards only when I was commanding an Army did the Division come under my command again, at Normandy.

Q Did you receive any reports of the numerous murders and burnings of villages that the "Das Reich" Division was responsible for in Southern France in the month of June, 1944?

A I know from the Indictment the accusation that in Southern France, during the fight against the DeGaulle army, there was fighting during which villages had been set on fire. At that time the Division was not yet under my command. I was still in the East. I only learned of these events here during my captivity.

Q I am not referring to villages burned during action but villages burned as punitive measures by units of your Waffen SS Divisions. Did you never hear reports of those incidents?

A Only here in the Indictment and the accusation did I hear of this one case in Southern France.

Q In June, 1944, for instance, the Panzer Grenadier Regiment 3, burned the village of St. Germain de Belair. You know nothing of that?

H0198-0040

H0198 -0041

A No, at the moment I don't know.

Q And Oradour sur Glane? The Panzer Grenadier Regiment 4 was responsible for that atrocity, wasn't it, when 793 men, women and children were murdered? You never heard of the atrocities performed by the "Das Reich" Division when it was a component part of your Corps?

A That name and the accusation cameto my knowledge here, during my captivity, from the Indictment. Before that I had no knowledge of it. It was concerned with an individual company belonging to that Division, which was put into action through local orders of the Feldcommandantur.

Q The Panzer Grenadier Regiment was that not under your command?

A No, at that time it was not yet under my command because I only got there the end of June. That is when I reached France from the East.

Q It was characteristic to use units of the Waffen-SS for these terror purposes then, was it not -- the very point I have been putting to you for many minutes through this cross-examination?

A I have also repeatedly expressed that it was not a typical characteristic of divisions of the Waffen-SS.

Q The Death Head Division, when did you command that?

A The Death Head Division too came under my command at the same time, January untilAugust 1943.

Q Did you know that the 1st Regiment, 7th Company of the Totenkopf Division murdered about 45,000 Jewish men, women and children in Warsaw?

A In what year was that supposed to have happened?

Q In theyear 1943, when you were commanding the Corps to which this division belonged, the Totenkopf Division, with the great tradition of the murders in concentration camps?

A The Division as such, came under my command not during the fighting at Warsaw but at Kharkov. That was apparently a mistake regarding the men and the guards of the concentration camps.

Q Did you know that thelst Regiment, 7th Company of the Totenkopf Division had shot 40 Russian prisoners of war near Kharkov in August 1943, for instance?

A No, in August 1943 the Totenkopf Division was no longer near Kharkov. It was by itself.

LT. COLONEL GRIFFITH JONES: Would that be a convenient time to adjourn? I have only a few more questions to put to this witness.

(A recess was taken until 1400 hours)

3945

AFTERNOON SESSION

(The hearing reconvened at 1400 hours, August 6, 1946)

PAUL HAUSER -- Resumed
CROSS EXAMINATION -- Continued

BY MR. ELWYN JONES:

Q Witness, did you know that the Prinz Eugen Division had been responsible for the massacre at Lidice in June 1942?

A I did not quite get the name of the place.

Q It's a very famous place, Lidice, L-I-D-I-C-E.

A No, already in the year 1941 I had taken my resignation and from then on had nothing whatever to do with the division. I heard nothing about this matter.

Q Have you heard the name today for the first time?

A I would almost assume so.

Q Oh, the whole world knows of the massacre of Lidice. Are you saying seriously to the Court you have never heard of it? You have admitted that the Prinz Eugen Division was an SS division, have you not?

A Yes, indeed.

Q I want you to look at Document D-944 to the Exhibit GB-566, because you have said that units of the Waffen SS didn't set fire to villages or commit atrocities against the inhabitants. This is a statement from the Yugoslav Commission for Ascertaining War Crimes taken from a member of the SS, Holtzer Leander; and he declares:

"In August 1943 the 23rd Company set fire to a village on the railway line Jablabnica-Prozor by order of the battalion commander, Obersturmbannfuehrer Wagner, under the command of the Company Commander, Untersturmbannfuehrer Schuh. The inhabitants of the village were shot in the meantime.

"In August 1943, on the orders of the same persons, the 23rd Company set fire to a village on the railway line Niksic-Avtovac; and the inhabitants of the village were shot. The order for the shooting came from Jablanica and the villages were burnt down already in the morning. The shootings in Pancevo were carried out by the police agent Gross, former master-dyer, Brunn, from the SS Division "Prinz Eugen" from Pancevo, a former master-miller. He received a reward of 20,000 Dinars for the hangings at the cemetery."

Did you know members of the Waffen SS were from time to time employed for

H0198 - 0043

hanging prisoners?

A It is striking that one company was named as the 23rd. We did not have such a number. Furthermore, I cannot tell you anything about it since I did not command this company. It never was subordinate to me. In this division, Prinz Eugen, there were many so-called "Volksdeutsche" Germans; and even its first commander, Fritsch, was a "Volksdeutsche" for the Balkans. I believe that the war in the Balkans showed a different aspect on both sides than elsewhere.

Q Now, finally, I want to deal with the unit of the SS organization. I suggest to you that the Waffen SS, the Allgemeine SS, the SD, and the police branches of the SS formed one great unit of the Nazi state. Do you agree with that?

A No. I stated again and again that this, a parent unit, did not exist; that we had no connection with the general SS nor with the SD; and we were completely under the command of the army itself. Temporarily small parts of the Waffen SS were under the disposal of the higher police; and SS leaders were assigned for tasks in the rear areas; and, this being the case, that applies to Warsaw as well as the cavalry brigades.

Q For the purposes of discipline and promotion, the Waffen SS came under Himmler, did it not?

A Only in cases of jurisdiction. First of all, the judges who were the divisional commanders were the competent judicial authority; but sentences beyond a certain degree had to be reported to Himmler for his approval and confirmation.

Q Listen to what the leader of the SS, Himmler, says about the unit of his own organization, this armed SS. This is when he was addressing the officers of the SS Leibstandarte of Adolf Hitler:

"This armed SS will live only if our entire SS is alive, if the entire corps is actually an order which lives according to these laws and realizes that one part cannot exist without the other. You are unimaginable without the general SS; and the latter is not imaginable without you. The police is not imaginable without the SS, nor are we imaginable without this executive branch of the state which is in our hands." That is an extract from 1918-PS.

Then he said again in 1943, "It must be so come about that this SS

H0198 - 0044

organization with all its branches, the general SS, which is the common basis of all of them, the Waffen SS, and the regular uniformed police, the Sipo, with the whole economic administration, schooling, ideological training, the whole question of kindred, is even under the Tenth Reichfuehrer SS one bloc, one body, one organization." That is from PS-1919.

Is not that a true picture of the SS?

A Yes, I'd say that it was so. He said it would have to be and it should become so for he knew that unity did not exist.

Q Then finally I want to put to you Hitler's ideas about the Waffen SS, the Document D-665, GB-280, which I referred to this morning.

THE PRESIDENT: You didn't give us the number for that document which you said took place in 1943.

MR. ELWYN JONES: That is the famous 1919-PS, US-170.

Q These are Hitler's ideas on the Waffen SS. He says that the greater German Reich in its final form would not include within its structures anything but national entities who are right from the beginning well disposed towards the Reich. "It is therefore necessary to maintain outside the corps of the Reich a state military police capable of representing and imposing the authority within the country in any situation." Then he goes on, "Having returned home in the ranks of the army, after having proved themselves in the field, the units of the Waffen SS who possessed the authority to execute their tasks as state police ..." That again is a picture of the unity of the SS by the leader of the Nazi state. Are you saying that he is wrong and that you were right in this matter?

A No, those are his ideas for the future, not which had been realized and which he intended to realize after the war.

H0198 - 0045

COL. SMIRNOV: Mr. President, I would like to put only a very vew questions to this witness in supplement to the detailed cross examination which was made by my British colleague. Do you allow me to do so ?
I am submitting to the Tribunal as USSR E xhibit 520.

THE PRESIDENT: Have you fresh matters to gointo, or fresh documents to put in ?

COL. SMIRNOV: I have a few fresh documents which I would like to submit, and in connection with that I have a few questions to put to the witness. Only three or four questions.

I am submitting to the Tribunal as USSR Exhibit 520 a summarized statement of the Yugoslav State Commission, which deals especially with the actions of the SS Division "Prinz Eugen". My colleagues have already quoted a few documents referring to this, and this is summarized.

CROSS EXAMINATION

BY COL. SMIRNOV:

Q. I would like the witness to apy attention to page 3, 4, 5, of the documentm which is a list of the villages destroyed during one action, and it is not the name of the villages, but it is the names of the heads of the families which were killed. I would like the witness to follow me while I read two paragraphs. "After the murder had been carried out, these SS groups went in the direction of the villages of Srijane, Bisko, Gernji Delac and Futisic in order to continue their mass murders and arsons,--

THE PRESIDENT: Can you tell us which page it is in the English ?

COL SMIRNOV: Page 6, My Lord, page 6. It is the fourth paragraph -- no, it is the third paragraph from the bottom, My Lord. Page 6 of the English text. May I continue ?

THE PRESIDENT: Yes.

BY COL SMIRNOV:

Q. "After the termination of the massacre, these SS-troops proceeded in the direction of the villages Srijane, Bisko, Gernji, Delac and Putisic in order to continue their mass murders and arsons. All the cattle they found in the burnt down villages was taken with them.

H0198 - 0046

The entire complex of these crimes, which were committed in March 1944 in the district of Split stands out distinctly from the usual SS criminal style by a particular fact. It is that climax of brutal cynicism, lock women and children in stables filled with hay and starw, deliver speeches to them and thefeafter burn them alive." I ask you, Witness, does not this contradict slightly your description of the SS ?

A. In both of these paragraphs I can only say that we are concerned with the Balkans. I do not know which units are meant here, and therefore cannot comment on this.

Q. I will submit the following document to be submitted to you. It is a statement of your old acquaintance. I believe that you remember the name of August Schmidthuber. Do you remember that officer ?

A. Yes, I know that name,

Q. Maybe you will recall that he commanded a batallion, the Batallion "Das Reichs" in the period when you were the commander of the division.

A. He was in the division when I commanded the division, and that is why I remember him, but for a long period of time he served in the Balkans.

Q. I would like to quote only one sentence from the statement of the Waffen SS Major General, and I will submit the original to the Tribunal Please listen to this paragraph, page 3 of the Russian text "A war correspondent told me that the commander of this first battalion Kaaserer, after having locked up a large number of citizens in a church in Krivaya Reka, blew it up. I do not know how many casualties there were."
Do you not consider this action as a very heavy crime against humanity ?

A. It appears that we are here concerned with reports of various sources. Direct witness did not make any statement here.

Q. No, this is the statement of the division commander. This is a statement of a general of the Waffen SS .

A. Yes, but a reporter makes a statement here, and he seems to have belonged to this battalion. But for a fact I cannot comment on this, for I was not there, and this division was never under my command.

H0198 - 0047

Q. Perhaps you will tell me what you thing of the following document. I direct USSR 513 to be shown to the witness. Have I correctly understood you yesterday when you stated that the SS troops did not murder hostages ?

A. Yes, even I said that to my knowledge the divisions which were under my command did not even take hostages.

Q. I will read three sentences of a proclamation of Sturmbannfuehrer Breimaier, who was in command of a battalion in the Prinz Eugen. "On the third of November, 1943, around 20 hours, a German soldier on the Veli street in Sinj was ambushed and killed. Because we did not succeed, despite all our efforts, in finding the culprit and because the population did not support us in this matter, 24 civilian persons will be shot and one hanged. The sentence will be executed on 5November 1943 at 5:30 hours. Signed, Breimaier, SS-Sturmbannfuehrer and Battalion Commander."
I do not read now the list of hostages that were shot. Isn't this a typical example of hostage shooting carried out by SS troops ?

A. I am hearing the name Breimaier for the very first time. I do now know whether previsouly he had instituted a court marshall and if things had taken the course as set down here, that wuld have been justified.

Q. Very well. Perhaps I will succeed in convincing you by what is termed "ocular" evidence. Will you show the witness these two photographs. With the permission of the Tribunal I will read a very brief extract of the statement of the State Commission of Yugoslavia. The original will be submitted to the Tribunal. It is now being shown to the witness. Will you listen under what conditions these persons were beheaded. "On the 9th of June, 1944, and on the following days the SS-Tropps from Trieste committed atrocities and crimes against the Slovene population in the Slovene coastal area, as we have already stated above." I will skip the next sentence and the second sentence, which are cumulative. "On that day Hitler's criminals captured two soldiers of the Jugoslav Liberation Army and the Slovene Partisan battalions. They brought them to Razori, where they mutilated their faces with bayonets, put out their eyes and then asked them if they could see their colleague tito.

H0198-0048

Thereupon they called the peasants together and beheaded to two victims before Sedej's house. They then placed the heads on a table. Later, after a battle, the photographs were removed from a fallen German, From this it can be seen that they confirm the above described incident, namely the crime of bloodthirsty German executioners in Razori." Don't you consider these acts as a typical example of crimes against humanity ?

A. If it had been perpetrated by men of the Waffen SS it would have been crimes, but that has not been proved here. It was one of thirty-five divisions in the Balkans, as against the large corps of the Waffen SS.

Q. Then I will show you another original German document which is USSR Exhibit 133, and which is a letter for information of the German high command to the battalion commander "Supersloda", Lieutenant Supreme Commander. I will only quote two sentences. You stated yesterday that SS troops did not kill prisoners. Did I correctly understand you ?

A. Yes.

Q. I will then ask you to listen to two sentences quoted from a German document. First, at the beginning of the page, "SS division is with its west blank near RITAC". I skip one sentence, and I continue, "As a result of the successful engagement, 23 dead and 34 wounded and more than 100 enemy dead have been counted." Please pay attention to the following words: "47 captured soldiers have been shot, 363 provisionally apprehended." In a report exchanged by two commando units it is officially stated that the prisoners were shot. This was a very cruel method on the part of the SS troops ?

A. Yes, a first lieutenant reports on crimes which allegedly an SS unit is supposed to have perpetrated, without mentioning the unit to which they belonged.

Q. I believe that the 47 shot soldiers is a cruel thing. Have you any different opinion on that matter ?

A. I have no proof of the fact that it was one of the Waffen SS who did this

Q. Then please answer the following question. Do you have knowledge where the third SS tank corps was engaged in the territory of the USSR ?

H0198 – 0049

A. The third tank corps ? The third ? Is that a corps, a Panzer corps ? I believe that that was used in the southern sector.

Q. No, it was engaged in Estonia. Did you know General Steiner ?

A. Yes, he was the commanding general.

Q. Did you know where the Totenkopf divisions were engaged ?

A. Yes, we discussed that today already.

Q. It was engaged at Miansk and other districts of the Movgoro region, isn't that right ?

A. I just heard the words "Mians'", Did I hear that correctly ?

Q. Yes. Thank you.

A. Yes, that is where the division was.

Q. That division was commanded by Major General Eicke, isn't that right ?

A. Eicke ? Eicke, yes indeed.

Q. Do you have knowledge where the Adolf Hitler division was engaged ?

A. At the same period of time as the division SS was it Miansk I believe it was used in the southern sector as well. Miansk -- I believe that was in the year 1942, or perhaps 1941.

Q. This division was commanded by Lieutenant General Simon, isn't that right ?

A. Simon was the successor to Eicke, yes.

Q. All right. Then when did Obergruppenfuehrer Dietrich command this division ? Was that later ?

A. No, he was there up until the summer of 1943.

Q. Do you know where the 134th SS division was engaged ?

A. We did not have numbers of that category high.

Q. And the 97th Division, "Golden Lily" ?

A. Neither did that one exist. We had at the most 35 to 40 divisions.

H0198 - 0050

Q Which was the Golden Lily? Was that in the SS Division?

A I am hearing that name for the first time, Golden Lily. No. No. That is an entirely new concept to me.

Q And Langemark, did you ever hear of that?

A There was a batallion "Langemark."

Q Do you know Sturmbannfuehrer Sehlung?

A I do not quite understand the name.

Q Sehlung.

A No. No. I do not know him.

Q And do you know Lt. General Luenoberg?

A Lingeberg, yes.

Q No. Luenoberg.

A He was the Commander of the SS Police Division, Yes, SS Police Division.

Q Thank you.

COLONEL SMIRNOV: Mr. President, I will submit to the Tribunal a note. This notice has been compiled according to the Commission's documents which are already submitted to the Tribunal. It is signed by the secretary of the Commission. And it is confirmed also. This might aid the Tribunal.

THE PRESIDENT: Have you, Colonel Smirnov, the original of this document?

COLONEL SMIRNOV: Yes.

MR. PRESIDENT: May I see it?

COLONEL SMIRNOV: Yes.

MR. PRESIDENT: Colonel Smornov, have you put in yet the report of the Extraordinary State Commission?

COLONEL SMIRNOV: Yes, Mr. President. A series of reports have been submitted. Thisnotice is a summary of material whichhas already been submitted. This is only to help the Tribunal.

THE PRESIDENT: Colonel Smirnov, does this document consist of extracts from the Extraordinary State Commission Report?

COLONEL SMIRNOV: Mr. President. It tells of the various units engaged in different regions of the USSR. This is not an extract. It refers to the SS attachments engaged in this territ ry, and in most cas s the facts which were at the basis of these divisions. They are all mentioned in the report of the State Commission which we have all already submitted.

H0198 - 0051

THE PRESIDENT: Colonel Smirnov, I think the Tribunal appreciates that you have done this for the convenience of the Tribunal, that this document has been prepared for the convenience of the Tribunal, but the Tribunal thinks they had better refer only to the report of the Extraordinary Commissio itself which has already been offered in evidence.

COLONEL SMIRNOV: I have no further questions to put to the witness.

BY THE PRESIDENT:

Q. Witness, what unit were you commanding at the time war against Russia broke out ?

A. At the start of the campaign against Russia I was the commander of the Division Das Reich.

Q. Das Reich. Where was that division stationed at the outbreak of the war ?

A. It was used and stationed in the middle sector of the eastern front.

Q. The middle sector of the eastern front. Was it employed in the original attack upon the Soviet Union ?

A. The attack was west of the Beresina, south of [redacted]. However, the division was not deployed there, but brought up.

Q. You mean it wasn't deployed there upon the first day ?

A. No, it was brought along as a rear echelon unit.

Q. How long after the attack opened ?

A. Yes, several dvisions were one behind the other, for the motorized division could be brought along --

Q. I asked how long after the attack opened was your division deployed ?

A. Only two to three days after the outbreak of hostilities.

Q. And are you telling the Tribunal that at that time or about that time you never heard of the order to kill Commissars ?

A. I have already testified that this order was not received by us and that in the divisions we did not act according to it. I know only that later on we received an order for a separation of the Commissars, and I have already stated that this troop had very little to do with this matter, for the Commissars were not recognized by the troop.

H0198 - 0052

Q. You say you didn't receive the order. What I asked you was : Did you hear of the order ?

A. As the second order came through about the separation, I believe I heard that a previous order had gone out, but it had not been transmitted by many offices of the general command.

Q. This order to kill the Commissars ?

A. We did not receive that order, that is correct, and I was dealing with this order.

Q. No, but when you received the second order, you said you had heard of the other order, and what I wanted to know was if the other order was the order to kill the Commissars ?

A. I did not quite understand the question.

Q. You said you received a second order to separate the Commissars, and at that time you heard of the first order. What was the first order ?

A. I said that I heard of the first order to kill the Commissars, but only at a period of time when the other order had come through for the segregation.

THE PRESIDENT: The witness can retire now.

DR. PELCKMANN: May I have a word, your Honor ?

THE PRESIDENT: Yes, certainly. I thought you were through.

DR. PELCKMANN: In the course of the cross examination of this witness the British and the Russian prosecution, as far as I am able to judge, submitted 20 to 30 completely new documents. Not all of these documents were used in the questioning of this witness.

THE PRESIDENT: Dr. Pelckmann, the purpose of re-examination is to ask questions and not to argue.

DR. PELCKMANN: Very well, Mr, president, I shall do that. I shall not put any questions dealing with those documents to which I cannot refer in detail. The Prosecution did not put any questions either, and I am of the opinion that these documents could not be used. One document is in the Polish language, and I am sorry I cannot read it and therefore I am not able to put questions about that document.

H0198 - 0053

REDIRECT EXAMINATION

BY DR. PELCKMANN:

Q. There is one document, Mr. Witness, which is found in the English language, and which comprises 184 pages, the title of which is "German Crimes in Poland", which I should like to put before you as an example. Will you please read the poster and will you tell me what connection it has with the Waffen SS, and if possible tell the High Tribunal the page on which it is found.

A. This poster is just beyond page 184. It contains an announcement of the SS and Police Leader, and 9t is therefore an organ or an instrument of the Higher SS and Police Leader and, as I have stated repeatedly, has nothing whatever to do with the Waffen SS.

Q. Now I shall have submitted to you another document, 4039-PS, a documen about which you were not questioned by the Prosecution. Please tell me what connection this document has with the Waffen SS ?

Q. Here the District Chief of Warsaw, some official who was subordinate to the Governor General, made an announcement which had no connection with the Waffen SS.

Q. Isn't there anything found in this document regarding the Waffen SS ?

A. It says here only that the German Wehrmacht --

Q. I was asking you whether there is anything at all contained in here about the Waffen SS or any other formation of the SS ?

A. I'm sorry I have to give you a decided no for an answer. There is nothing contained herein.

Q. I should further like to submit to you the document 4038-PS. This document was also submitted to you by the Prosecution. Please take your time in reading this document, and then tell me what connection there is between this document and the Waffen SS ?

THE PRESIDENT: What number is that ?

DR. PELCKMANN: It is 4038- PS, Your Lordship.

THE WITNESS: It also is an announcement by the Chief of the Warsaw district who was subordinate to the Governor General of the Government General and has no connection with the Waffen SS.

H0198 - 0054

BY DR. PELCKMANN:

Q. I should further like to submit Document D-954, as far as I am able to make out; it might be 57. However, this is an interrogation of the 27th of May 1946 of the witness ---

THE PRESIDENT (interposing) : I think all these documents speak for themselves, and if they don't refer to the Waffen SS, the Tribunal will take note of that fact.

DR. PELCKMANN: Yes, Mr. President. Then I should like to ask just why these documents were submitted. I am only taking the liberty of referring to the fact that there is no connection.

I shall not submit this document since I have received your suggestion, Mr. President, and I might make the same remark about this document as well.

BY DR. PELCKMANN:

Q. And can you judge, Witness, whether in this book D-956 which you held in your hands, there is anything dealing with the Waffen SS ?

A. I looked at it but briefly, but I could not see any connection.

Q. You were reminded, Witness, of the speech of Himmler at Kharkov. You said on that that this attitude and opinion of Himmler was wrong, that terror had been of use of the troops. Did you express that attitude or opinion to Himmler, and if so, in what way ?

A. On the same day I made known my opinion to Himmler, and as is customary between superior and subordinate, I did this between the two of us.

H0198 - 0055

Q An SS Division "Prinz Eugen" was mentioned. How many divisions of the Waffen SS were there?

A To my knowledge, there were more than 35 divisions. I believe they numbered higher than that. However, they did not exist at the same time. One of these divisions was the Division "Prinz Eugen", of which I have already said that it contained many racial Germans in its ranks.

Q Is it true also that in this division Serbs and Croats served?

A I cannot give you the particulars about that. We had warrior divisions in the Balkans which contained Croats, Slovenians and Moslems.

Q Do you know about the fight in the Balkans? First we are concerned about whether, if this fight was carried on very intensively, atrocities committed by the other side were reported to you. I am not asking this question in order to determine whether and state that the other side committed atrocities; my purpose is only to determine the fact that through single atrocities you cannot draw conclusions as to generalities.

A I had no personal insight into the campaign in the Balkans. But from history I know that even before the First World War, fatalities did occur in the Balkans.

Q Do you know about the Eastern Front; that is, from reports which came to you? I should like to limit myself once more in the same way just so that the intention of my question is quite clear.

THE PRESIDENT: Dr. Pelckmann, the witness has already told us that he knows nothing about the war in the Balkans, and therefore any questions you put to him will have no significance to us.

DR. PELCKMANN: Yes, Mr. President. I must have misunderstood. That is why I do not wish to inquire any more about the Balkans, but rather turn to the Eastern Front, where the witness had his experiences.

BY DR. PELCKMANN:

Q Mr. Witness, do you understand that I am now turning to the Eastern Front in my question?

A Yes, incidents of that type did take place. And matters like that were collected as they were submitted, I believe, to the Red Cross at Geneva by the commanders of the armies. But I cannot give you particulars.

Q Do you know that reports like that were collected?

H0198 - 0056

A Yes.

Q From this fact would you conclude that the Red Army did things like that systematically?

A You can hardly expect me to give an explanation as to whether they were systematic.

GENERAL RUDENKO: Mr. President, I would like to make the following brief statement. The defense in the course of the examination has tried more than once, according to data which was published in White Fascist Books, to point out atrocities committed by the opponent; and therefore I consider that the question put by the defense now must be ruled out.

THE PRESIDENT: Dr. Pelckmann, the Tribunal considers that you have no right to ask this witness for his opinion about these matters. You must confine yourself to asking him questions as to facts, and what he knows about facts. And you can make any argument about those facts that you like when you come to make your argument.

BY DR. PELCKMANN:

Q Witness, in order to clarify the sense of my previous question, I should like to ask you only the following. If you could see now the deeds which allegedly were committed by the SS, that is, deeds based on these documents and as shown by these documents, would you, despite everything, say that that was not a system but rather that these were single incidents caused by the severity of the battle, and which could have happened partly because of the discipline among foreign elements?

THE PRESIDENT: You should not begin by asking the witness for his opinion. He has already given it to us, you know; he has already said, when he was being cross-examined about those incidents in which the Waffen SS took part, that they were individual instances. He has already said that.

BY DR. PELCKMANN:

Q You have seen the documents in which the shooting of hostages is mentioned, according to which a Yugoslav was hanged. If in your troop you had received knowledge of a case like that, would you have taken steps?

A In a case like that, first of all, the judicial authority was the competent authority, and he is the divisional commander. If I as the commanding general had had reports like that, I should have taken steps, and I should have decreed a judicial procedure. Cases like that did occur several times.

H0198 - 0057

Q You were confronted with the case of Oradur in France. Do you know whether your unit, that is, whether your command, participated in this crime?

A I know this incident only from the indictment, and I had no further knowledge about it. In this case, it allegedly deals with an act of a single company leader. That took place at an earlier date, however, and if that had been brought to my knowledge and if the division commander had been subordinate to me, I would have given him the order to start a judicial proceeding.

Q Your unit was deployed in Normandy; is that correct?

A At the time I led an army; yes.

Q Oradur is not situated in Normandy?

A Oradur is in Southern France.

Q Was your unit responsible for this during your time as commander?

A No, neither the unit nor I.

Q The prosecution has confronted you with material from a document US 11 and cited several quotations to you.

DR. PELCKMANN: I should be very grateful if this document could be put at my disposal so that I could present it to the witness; for just the quotations without seeing the document I do not believe can put the witness in a position to give an intelligent reply.

(A document was handed to Dr. Pelckmann).

BY DR. PELCKMANN:

Q This is the order given by Hitler about the future tasks of the SS. This document is only English, and therefore I cannot hand it over to you. But I shall give you several quotations from this document. I shallquote the following:

"The greater German Reich, in its final form, together with its boundaries will not only contain racial units which are well disposed to the Reich, but in our Reich of the future, only police troops will have the necessary authority."

Please describe this order, since you have stated that you know it, and tell us to what period of time these statements actually refer.

A I know this order only through oral transmission. It was transmitted to the military offices in order to pacify their misgivings about the expansion of the Waffen SS. This applies only to the future. It speaks of the greater

H0198 -0058

German Reich as the Reich of the future. But naturally what Hitler meant in particular by this is beyond my knowledge.

Q According to directives, it almost looks as though the Waffen SS was to receive police tasks in the future. Was that the basic principle of the Waffen SS during the war?

A No. No. I have to give you "no" for the answer. Perhaps Hitler sought a similar instrument to the one that existed in Austria, where there was a military bounday where the men worked, and in emergencies worked for bounday defense.

Q In your questioning by the Russian prosecutor, a list of alleged crimes committed by Waffen SS units was quoted, and on this list one unit is mentioned. The witness was asked whether he knew the commander General Steiner. You said yes to that question, witness?

A Yes.

Q Now I shall read an affidavit. This is one of the affidavits which I shall submit later on. This is Affidavit No. 1, an SS affidavit from which we can see how strictly this Lieutenant General Steiner considered the discipline of his troops. I quote from the middle of this affidavit:

"Our attention had been called to an alleged spy, according to the affidavit of Walter Karlweiss.

"We tried to open the door of the neighboring house, but we were unsuccessful. Thereupon we broke a window, entered the house, and investigated it thoroughly, without, however, finding a Soviet spy. Since we had only to realize that we had made a mistake, we left the house by the way in which we had entered it, and we regretted very much having broken a window pane.

"Two hours later, two Oberscharfuehrer were there when we were arrested. We asked the policemen for the reason of our arrest. They replied that the Ukraine owner of the house which we had searched had complained because of the broken window pane and complained to the divisional staff, and that the commander of the division, General Steiner, had decreed a strict investigation of this case at once before the Divisional Court, and Ernst Kugel and I were interrogated singly by an officer of the rank of Hauptsturmfuehrer.

"The judge said that according to the latest decree of the general, a decent and clean deportment towards the Ukraine population had been laid down

H0198 - 0059

as our duty. Together with my comrade Kugel I had violated this rule, since without permission and order, we had entered this Ukraine home."

Now I shall omit a few sentences.

"After this case had been cleared up in this matter, the judicial officer drew up a transcript and charged me with transmitting this record to General Steiner. He commented on my report, and these were his words:

'It is very well that your behavior was clean; otherwise you would have been severely punished. General Steiner charged me with reporting to him personally about the investigation, but I am happy that I did not have to give him any bad reports about his men. And apart from that, tell all your comrades Vicking is fighting chivalrously and cleanly.'"

After having heard this example, witness, can you confirm the fact that first of all this was the basic attitude of General Steiner and his troops, and secondly that it was the basic attitude of the Waffen SS, who were stationed at the fromt, as well as of the Waffen SS who operated behind the lines?

H0198 - 0060

A Steiner was one of the first commanders who headed up the Waffen SS. I know his strict opinion which is stated here. Whether it was a window pane and whether a judicial process is necessary in a case like that, that is a point I would not know. But as a basic principle, this opinion was held by the old leaders of the Verfuegungstruppe and of the Waffen SS, and this view was held from the beginning.

DR. PELCKMANN: I beg your pardon, Your Lordship. There are so many documents, but there is only one more which I should like to make the topic of my re-examination.

Of the numerous affidavits submitted by the British prosecution, one deposed by Dr. Stanislaw Piotrowski is among that number, deposed on the 29th of July, 1946, right here in Nuernberg. I should like to suggest that this witnessbe called for cro s examination before the High Tribunal. I should like to make this application, for it is quite obvious that this witness is present here and there would be no reason to satisfy ourselves with an affidavit.

THE PRESIDENT: What is the number of the document?

DR. PELCKMANN: No. D-939, Your Lordship.

THE PRESIDENT: Dr. Pelckmann, hadn't you better finish with the witness first and then make your motion afterwards, if you want to make a motion about cross examination.

DR. PELCKMANN: I have no further questions to put to this witness, Mr. President.

THE PRESIDENT: The witness may retire.

DR. PELCKMANN: I beg your pardon, Your Lordship. I have made a mistake. It is not Dr. Piotrowski; it is Israel Eisenberg. That is the name of the witness.

THE PRESIDENT: D-939?

DR. PELCKMANN: Yes.

M. FUSTER: Mr. President, might I ask a question to make something clear?

THE PRESIDENT: Well, it is very inconvenient to do it at this late stage. Why didn't you do it before?

HO198 - 0061

MR. FUSTER: It is not very important, My Lord. I will withdraw it.

THE PRESIDENT: Very well. The Tribunal will adjourn now.

(A recess was taken.)

THE PRESIDENT: Mr. Elwyn Jones, the Tribunal understands that the witness, who is --

MR. ELWYN JONES: Israel Eisenberg.

THE PRESIDENT: Yes. Is he present in Nurnberg?

MR. ELWYN JONES: He is nowin Stuttgart, My Lord, and is available to be called if the Tribunal thinks it is necessary.

THE PRESIDENT: Well, the Tribunal thinks, unless there is some particular objection, in view of thenature of the evidence, that possibly he ought to be called for cross examination.

MR. ELWYN JONES: The prosecution has no objection to make at all provided that we have additional time to get the witness here.

THE PRESIDENT: Well, then, will you have him brought here as soon as possible?

MR. ELWYN JONES: Yes, Your Lordship.

DR. PELCKMANN: I shall now call the witness Reinecke.

GUENTHER REINECKE, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your fullname, please?

A Guenther Reinecke.

Q Will you repeat this oath after me?

I swear by God -- it is usual to hold your hand up when you are sworn, -- the Almighty and Omniscient, that I will speak the truth and will withhold and add nothing.

(The witness repeated the oath)

DIRECT EXAMINATION

BY DR. PELCKMANN:

Q Mr. Witness, what position did you occupy in the SS?

A I was an SS Oberfuehrer, Chief of the department of the SS Criminal Court and Chief Judge of the Supreme SS and Police Court.

Q Did you have legal training?

H0198 - 0062

A I had my legal training at the universities of Innsbruck and Munich. In 1931 I passed my first State examination and in 1934 I passed the SS examination which entitled me to occupy the position of a judge. In 1933 I became Doctor of Law at Munich.

Q Did you or the other SS judges have any special training at all carried out in special schools?

A Neither I nor the other SS judges have had special training at special schools. The SS judges came from positions in the general legal world and before the war they were high legal personalities, judge advocate generals, lawyers, or during the war they came from the courts of the armed forces and were transferred to the courts of the SS.

Q Did you, on the strength of your activities, gain an impression of the construction and work of the units and groups, the chief of which was Himmler, and which one might describe generally as the SS?

A Yes. For nearly ten years I worked in the legal system of the SS. From that sector I occupied myself with the development of the construction and with the activity of the entire SS, the chief of which was Himmler. I occupied myself with it to a considerable extent. From that point of view I gained a very considerable knowledge and from that point of view I can give my testimony here.

Q According to the prosecution, the SS influence infiltrated into the entire life of the State. In this connection, the numerous positions and powerful positions are referred to which the so-called Reichsfuehrer SS Himmler had held. Is it the case that where the Reichsfuehrer SS is acting that the SS, generally speaking, is meant?

H0198 – 0063

A No, Heinrich Himmler united himself in a number of powerful positions in the Party and the State, and finally, the Armed Forces. He was Reichsfuehrer SS with the chief of the German Police; also, he was Reich Minister of the Interior.

Q Please speak more clearly.

A He was Reich Commissioner for the Strengthening of German Nationalism; he was chief of the reserves of the Armed Forces; he was chief of the prisoner-of-war system, and finally, he was the Supreme Commander of the two Army Groups. All of these powers and positions had nothing to do with his position of the Reichsfuerer of the SS. His nominations to the positions of power took place because of orders from above and because of his suitability, and for reasons which can be traced back to his personality and not because he was Reichsfuehrer SS. Any connection between the SS and these positions of power held by Himmler does not exist.

In particular, four powerful positions of Himmler are being emphasized in the indictment, and it was alleged that here the SS had been active. These were his position as the Reichsfuehrer of the SS, Chief of the German Police, and Reich Commissioner for the Strengthening of German Nationalism, and also Chief of the Prisoner-of-War System.

Q Are we concerned, in the case of these 4 positions, with the activities of the organization of the SS?

A No, we are only concerned with the organization of the SS where Himmler, in his capacity as the Reichsfuehrer SS was acting in connection with the SS. As the Chief of the German Police, he had been given a task which was entirely a part of the State. His commission for the Strengthening of German Nationalism is entirely an affair of the Reich. His position as the chief of the Prisoner-of-War Systerm on the other hand, is entirely an affair of the Armed Force.

Q According to the wording of the previous German

H0198 - 0064

laws, it would have to be mentioned in the transfer of all tasks which were assigned to Himmler, the phrase Reichsfuehrer SS. How did that happen ?

A That is correct. Reichsfuehrer SS was the first position held by Himmler at the beginning of his career. It is typical usage of language in the National Socialist Reich not to use the name of persons, but to refer to them by title of their position. That usage can be found in numerous laws by the persons as such which, by that, the organization is not meant. As in many economical political laws, in order to give an example, Hermann is called a Reich Marshal, something which happened very often. That was not to say also that the German airforce was acting in an economic political matter.

Q You have just mentioned organizations. Organizations--plural-- of the SS. As you know, your statement, your testimony before the Commission is already in the hands of the Tribunal, in which you said one could recognize 5 different units which had been mentioned by the Prosecution and had been collected as one long unit. The General SS, Waffen SS, SD, Police, and System of concentration camps. What do you want to state in your statement that that these were independent organizations ? Will you start with the Allgemeine SS--the General SS ?

A The General SS was a part, an addition, of a political Party. They remained a part of the political Party until 1938. It disappeared at the beginning of the war. At that time, 70% of the members of the General SS changed over to temporary service, some in the armed forces, a smaller percentage of which was serving in the armed forces. But, even the remaining 30% were entirely caught up by the armed forces that the general SS, in wartime, had practically disappeared. The General SS had, at no time, received tasks from the state, nor did it carry out any tasks on behalf of the state. Its members were the remaining civilians who only wore uniforms when they were on duty--that took place twice weekly, quite often

H0198-0065

on Sundays--and it was in order to keep order during party meetings. It was sports and it was training.

Q But, it is alleged by the Prosecution that the General SS was the backbone of the entire SS, which consisted of General SS, Waffen SS, and concentration camp duties. Is that correct ?

A No, that is not correct, and it is in contradiction to the historical development of the General SS. The General SS was not a reserve from which the other name organizations were drawing their forces and supplanting them. The General SS partly had no connection to the other organizations named.

Q Furthermore, the Prosecution stated that the General SS had not only had a punitive organization, but that it had infiltrated the organization of the apparatus of the States, is that correct ?

A No, that again is not correct. Although it is correct that high persons in the General SS were occupying positions in the State, such as the position of the President of the Police, and it is also correct that such personalities occupied positions in industrial firms. It is, nevertheless, concerned with appointments which are connected with the persons of the nominated individuals but not the organization as such. Might I remind you that particularly, the position of Police President during the first years after 1933 was mostly not at all occupied by members of the SS, but was staffed by members of the S.A. In fact, the General SS was infiltrated by such strange persons and organizations. Himmler appointed people to positions in the State and Economy and made them honorary members of the SS without the people being connected with the SS as such. In 1936, for instance, the so-called Kiefhaueser Union of soldiers was taken over into the SS by Himmler, but it had never had anything to do with the SS at any time and it had volunteered under the organization of the SS. You will find the same picture in 1938. There, Himmler is awarding honorary ranks first, to the Order Police, and the

H0198-0066

Security Police, whom he appointed to a certain rank and give them uniforms of police organizations, but they were entirely separate from the General SS and had tasks completely foreign to the General SS.

Q Were such persons to whom such ranks were awarded in the General SS called honorary leaders ?

A They were the honorary leaders of the SS to whom I have just been referring.

Q Is it typical for the honorary leaders that they never did duty in the SS ?

A It is typical that these honorary leaders, because of their position, were given ranks and the right to wear a uniform. But they themselves had never done a single day's duty in the General SS and they would have had no contact with the members of the actual SS. This, generally speaking, is the concept of the honorary leaders in the SS.

Q Would it be right to describe such honorary leaders who had no official contact or duty with the SS as being Hess, Ribbentrop, Von Neurath, Sauckel ?

A All these persons you have mentioned are typical honorary leaders in the SS as I have described them ?

Q Did they have the power to issue orders ?

A When they were appointed honorary leaders they only received the right to wear the uniform. Any power to issue orders was not given to them.

Q The other problem we should dwell on is the Waffen SS. What is the situation there ?

A The Waffen SS, from the beginning, was an individual organization and it remained as such until the end of the war. It began in the so-called Special Disposal Group. They were connected to the General SS because from the General SS recruits were transferred to the Special Disposal Group, and the Special Disposal Groups were joined by German citizens who got into it through other organizations of the Party and other citizens who were not connected with the Party.

H0198-0067

They later developed themselves in the Waffen SS -- the contact decreased, the contact which was loosened initially. The Waffen SS became an independent organization, which can be expressed by the fact that members of the General SS and members of the Party who are serving in the Waffen SS, find that their memberships in the General SS and the membership in the Party becomes dormant for that period, but it is typical that even the highest leader in the General SS does not by any means join the Waffen SS with the same rank he hasin the General SS but that in the Waffen SS he is treated exactly as any other citizen; in other words, he is beginning as a recruit. The difference, as proof for my allegation that we are concerned with an independent organization, also lies in the fact that in the case of the criminal proceedings of the General SS, the NSDAP would appear whereas in the civil proceedings of the Waffen SS organization, the German Reich would act.

Q. Was there any connection between the General SS and the Waffen SS on one side and the SD on the other ?

A. In this case, no connection whatever existed; during the war it has developed into an independent intelligence service even in 1934.,it became an independent organization which had nothing whatsoever to do with the General SS and the Waffen SS. It merely had the joint contact with Himmler.

Q. Was the relationship between the Waffen and the General SS complete ?

A. I believe that this question cannot include the Waffen SS in any case. The Waffen SS had a typically military character and its work was just military; that is to say, during the entire war it was at the front. Any connection to these can therefore not possibly be established but the Gener SS also had no direct organization with the police. The police was an organization of the State and it had its orders from the state; the appointment of high offices, high-ranking officers in the General SS and in the Higher SS and police leader, again, indicates no organic connection whatever betwee the two organizations. The Higher SS and Police Leader in that particular position had no power to issue orders to the General SS because he was at the same time the head of another sector of the SS but, on theother han., he had not got the right to issue orders to the police either. Members of

H0198-0068

the police have in fact issued by external difference -- not worn an SS uniform at any time. There is a connection between the General SS and the Waffen SS on one side and the Security Police on the other. As I have already stated, in 1938 the Security Police quite suddenly received the right to wear the SS uniforms and their ranks were coordinated with the SS. That, however, does not indicate that there was any connection with the organization of the General SS. The Security Police had no connection with the State and the General SS on the other hand never had any powers ; he cannot carry out arrests nor can he carry out confiscations nor can he carry out any other executive function. It is obvious that particularly at the beginning of the war and during the war the Security Police, as far as their external appearances were concerned, became more and more secret and that, too, the wearing of the uniform and we are concerned with the period----

THE PRESIDENT: Is it possible that this evidence could have been given at greater length before the Commission ? Did you hear what I said ?

DR. PELCKMANN: Yes, Mr. President.

THE PRESIDENT: You can shorten it.

DR. PELCKMANN: Yes, I shall shorten it. The witness has already come to the end of that particular part of his testimony.

THE PRESIDENT: You have been asked over and over again to shorten the evidence and you seem to me to be making no effort to do it.

DR. PELCKMANN: I have considered it myself, only to clear up the question of the Higher SS and Police Leader in particular in great detail because that question is so utterly intricate for anyone who doesn't know Germany and for us Germans.

BY DR. PELCKMANN:

Q. What did the Higher SS and Police Leader have to do with the General SS in Occupied Territories ?

A. Nothing at all, nothing whatsoever, because in Occupied Territories there wasn't any General SS at all. The General SS was an institution for Germans citizens and for that reason, it didn't exist in Occupied Territories. The Higher SS and Police Leader in Occupied Territories was carrying out

H0198 - 0069

entirely only police functions, without having any connection or ties with th General SS and that for the reasons which I have described, couldn't have ha it.

Q. Wasn't there any General SS in the Occupied Territories ?

A. As I have just told you, the General SS was a unit, an organization of a political party, in which unit German citizens were exempt -- in Occupied Territories, and for that reason the General SS could not exist.

Q. Is it correct, therefore, for me to say that perpetrations, in fact, crimes of the Higher SS and Police Leader in the Occupied Territories , cou not concern the General SS and incriminate them at all ?

A. That is certainly and absolutely c rrect

Q. I should like to make the discussion of a document. During the recess, I have given you, Mr. Witness, a document and perhaps you would be good enough to state the number of the document to the High Tribunal. It is the document which was put to the witness von Eberstein yesterday.

A. It is document 4-24 -PS. It is correspondence between the Higher SS and Police Leader in the Operational Zone, Adriatic Post, Globocnik with Heinrich Himmler and with Oswald Pohl.

Q. Has it been possible for you to ascertain from the document, in which capacity the author of these letters was acting; was he acting in his capacity as HigherSS and Police Leader in Trieste or was he acting as Higher SS and Police Leader in Lublin, as far as you can remember ?

A. The document shows quite clearly that Globocnik, in this case, was ac as SS and Police Leader in Lublin and not as Higher SS and Police Leader Adriatic Post. This is contained actually in the document itself. I myself, know from my own activity that at the end of 1943 and at the beginning of 1944, Globocnik was relieved as SS Leader in Lublin and that he was given the post of Higher SS and Police Leader in the early personnel. So far the state of the document appears incorrect. The date of the document is the 5th of January 1943 but that may be an error . It wou d have to be in 1944 as the letter head shows.

Q. Would Globocnik's activities, described in this document, implicate the General SS; that is to say, did Globocnik as the leader of the General SS

H0198-0070

carry out the ac ities which he is describing ?

rA. It is obvious, as it becomes clear from the document, here, that Globocnik was acting in his position as SS and Police Leader and that we are here concerned with the secret special task which was given him in the so-called action "Reinhart". Here he is acting entirely in the police executive sector. Any connection between that work with the organization of the General SS or even by one of its members, cannot in any way exist.

Q. Are you drawing the conclusion, namely, that we are here concerned wit the special direct order and task from Himmler on the strength of the fact that the report is addressed to Himmler directly and not as it ought to have been -- is addressed via the Higher SS and Police Leader at Krakow, Krueger ?

A. That is quite true but it als becomes apparent from other circumstanc contained in the correspondence. The special task issued in the correspondence; furthermore, the correspondence is headed "Secret Reich Matter" and furthermore, it is mentio ed on the document that this secret Reich matter only existed in four copies and the copy sent to Himmler, to Globocnik is No. 1, the original.

H0198 - 0071

Q You are still reading from document 4024?

A Yes, that is the document I am reading from.

Q Would you please pay attention to the top of page 3. It appears to me that it shows perfectly clearly who was occupied with these matters, and by whose orders and whose authority Globocnik was acting.

A On page 3 of this document, it shows that the action "Reinhardt" was subdivided into four territories. Firstly, resettlement, secondly, use of labor, thirdly, use of materials, fourthly, the hidden values and real estate. It also shows that Globocnik was only communicating with Oswald Pohl personally, except with Himmler, in this case. Pohl was Chief of the Administration Department, when Globocnik was Chief of the Adjutant Department.

THE PRESIDENT: What is the point of all this evidence? We have the documents before us.

DR. PELCKMANN: Yesterday this document was shown to the Higher SS and Police Leader in the Reich, von Eberstein, in order to prove with it, through Globocnik's action, who had also the title of Higher SS and Police Leader, and to show that abroad, Higher SS and Police Leaders were committing crimes, and also to prove that the General SS was also implicated in these crimes. Because of the view of the prosecution, I am trying to show that Higher SS and Police Leaders were simultaneously acting on behalf of the General SS. This witness, Reinecke as a high Judge, can judge the entire organization of the Higher SS, and he is in a position to state whether this impression of the prosecution is correct.

THE PRESEDENT: Surely he can say so without going all this time on this document. If he wanted to say whether Globocnik was acting on behalf of the SS, or was not, why does he not say so and get done with it?

Q After you have seen the document, and considering your experience, with the organization of the SS , as we have been

H0198 - 0072

able to judge it , and you say that Globocnik was acting on behalf of the Waffen-SS and by its order, or whether he was acting on behalf of the General SS?

A The contents of the document show clearly that Globocnik was neither acting on behalf of the General SS and Waffen SS, or for them. The document shows clearly that it was his special personal part or task given to Globocnik by Himmler, a task which has nothing to do with the two organizations mentioned.

Q Amongst the various groups which you mentioned earlier, groups which had also been regarded as one unit by the prosecution, did they have any connection with concentration camps? We had not yet come to the system of the concentration camps. How did the concentration camp system fit into the SS and was there an organic tie between the system and the concentration camps and the SS?

A An organic tie did not exist. The management of the concentration camp system was therefore a task for the Reich. With such personnel, such members of the General SS and small portions of the SS, and members of the small unions, and finally members of the armed forces, were transferred to guard duties in concentration camps. The system of concentration camps, and according to its purpose, had a character similar to that of the Police. The carrying out of the task for the Reich was given to Himmler in 1932 or 1934. The special organization formed was called at that time, the "Totenkopf", the Death Head Units. That organization too did not originate in the General SS. The first guard for the concentration camps were to a very small degree former members of the General SS. They were also members of the SA and other personnel. They were members of the party, and people who had belonged to no party, which was of course in accordance with the conditions of the time. There were also unemployed and required work and food, and who had to be put to work. From these initial stages, the

H0198 – 0073

Death Head Units continued to develop and they were given police training. In 1939, they joined the Waffen SS organization, which was at that time being formed.

H0198 - 0074

The task of guarding concentration camps now became the task of such persons who could not serve on the front. Members of the SA, and members of the armed forced were later also assigned to guard duty at the concentration camps.

Q You have said that in 1939, the death heads units joined the SS. I shall have to ask you specially because during the examination of the previous witness, death head units and death head divisions had obviously been mixed up. Will you please describe exactly the designation of these two types of units? What is meant by them?

A Death Head Units are the guard units in the concentration camps until the beginning of the war. At that point they were transferred to various parts. The Death Head Division has nothing to do whatsoever with the Death Head Units. The Death Head Division is a division of the SS, which was being formed and moved to the front as a complete division.

Q Q You just said that Death Head Units in 1939 were transferred in the SS. Would that mean that after they were transferred to the SS they had something to do with the concentration camps, in guarding them?

A They were divided up among the various divisions as soldiers.

Q It has been alleged by the prosecution that members of the SS had been unified by a general command, and by that the prosecution means that it becomes clear from a reference to a picture presented by the prosecution that the 12 chief departments of the Reichsfuehrer SS served as Chiefs of Justice. Were thos 12 chief departments the legal organizations of the SS ?

A No. These were not the organizations heads of the organization.

Q In order to abbreviate the proceedings for the Tribunal, I shall omit the 12 leading departments now. What about the Chief Department of the Order Police or the RHA? Were they

H0198-0075

sources of the orders for the SS?

A No. The General or Police Head was the head of the Order Police, and the Chief of the Security. They were departments of the Minister of Interior.

Q What about the Staff Chief Department? Was the Chief Staff Department of the Reich Commissioner, for the strengthening of German Nationalists, the so-called Chief Department, Heissmeier, were they the sources of orders for the General SS and Waffen SS?

A No. Both of the Chief Departments were authorities of the Reich. They were not opposite to the Waffen SS or the General SS. Both Chief Departments had no authority.

Q Were the remaining 8 chief departments, sources of orders to the General SS and Waffen SS?

A From the remaining 8 chief departments, you will have to exclude 2. The so-called Chief Department Heissmeier, and the chief "Personal Staff", who had nothing to do with the SS at all. The Chief Department had no authority for orders but it was the Adjutant's office of Himmler. The various sections came under Himmler's orders directly and which he personally ordered and carried them out.

H0198 - 0076

Those orders had nothing to do with the work of the General SS and the Waffen SS. For example, the Department "Levensborn" (German form of Life) was a part of that. Then, the Reichs Chief Medical Officer, Dr. Gravitz, was also working in that chief department. Then in one capacity were the personal officials of Himmler, who without working with the organization, carried out biological experiences.

Q I believe that further examples will be unnecessary. I have one further question in connection with that complex of organizations. These six departments, were they unified in the supreme command of the SS?

A No, these chief departments were not a unified SS command. They were six departments working on the same level and staffed by experts, who could give orders to the troops without their having any unification in the hands of one single person.

Q Did Himmler and his immediate staff represent such unified supreme command, which was the eventual source of orders and which would guarantee a unified direction of the various sectors in the various posts?

A No, Himmler did not have such a staff. He himself only very rarely interfered with the general direction of the SS and never in the principle of unifying its command.

Q Did not Himmler's speeches contradict your testimony here? For instance, the speech at Posen, where he emphasized the uniformity of the organizations?

A. No, the speeches do not contradict the testimony that I have just given. In his speeches he was no doubt speaking of unity and that certainly was his desire, but it does not in any way correspond with the reality. Himmler's speeches are therefore to be regarded as a picture of plans for the future instead of stating a way to work with each other as Himmler wanted these

H0198 – 0077

organizations to function. Those organizations were different and always developed singularly. You can clearly recognize from Himmler's speechthat he was aware of this and it was for that particular reason he took the opportunity of stating his thoughts about the uniformity of the high leaders and organization. This point of view had nothing to do with the view of the organizations at all.

Q This lack of unity did not become a part in the legal system of the SS?

A Yes. This became clear afterwards in regard to the legality. Of course, this was not a part of the General-SS and in that case it applied to the Waffen SS and it was furthermore applicable to the police. It was for that reason that Himmler during the entire war considered the police as being one close group. At the beginning of the war there were seprate units which could be considered as troops on active service and as the war went on and particularly as the air-war sent on, the entire German police was considered as being unified and therefore came under the jurisdiction of the Court. The same not only applies to the security police, but again the decree from Himmler in 1943 according to which the entire police, during the war, was considered separate. Therefore it came under the jurisdiction of the SS legal system. These departments remained entirely independent and were in no way connected with the Waffen SS. That became appa rent

from the fact that Himmler at the same time handed over the distribution of the legal matters, as far as it referred to the research and from the hands of the legal system, to the Special Work Investigating organization, which was part of the RSHA.

The outcome was that legal proceedings against members of the RSHA could be carried out and that sentences were passed, but the insight into the matters of the RSHA was denied. Even a legal system as a control measure was quite impossible.

Then the members of the guard units of concentration camps were under the jurisdiction of the legal system, because at the beginning of the war they had become members of the Waffen SS, nominally speaking, for either financial reasons or supply reasons and also for the reason of uniformed supervision, they were drawn into the Waffen SS.

Q Now you say the General SS did not come under the legal system leadership at all from the point of view of legal rights. Then under whom did the members of the General SS come ?

A The legal system of the SS became operative in October of 1939, which was at a time when the General SS was about to disappear. Before that the General SS came under the General legal system. Perpetrations committed by the General SS were therefore prosecuted by ordinary German courts and they were sentenced by them. This same condition remained in force during the war, even when there was a legal system of the SS, at least insofar as the members of the German SS remained in their own country.

Q Then, in order to state it more clearly, Mr. Witness, the General SS during peace time and during war time came under the Civil Ordinary German legal system. Is that right ?

A Yes, that is right.

Q The prosecution has alleged that from the beginning the SS was being designed for illegal purposes and from the

H0198 - 0078

beginning it has carried out illegal purposes and that no difference was made during the various periods with which we are concerned. Would the development of the legal system of the SS strengthen that allegation referred to by the prosecution ?

A If an organization had criminal aims and carried out criminal activities, then logically the legal system of such an organization must by virtue of the offices of the organization, its contents and its activities, must indicate that it is covering up such criminal aims and criminal activities precisely. The officers of the SS from the moment of its formation were principals in the fight against crime and had a perfectly logical legal system.

Q Now, regarding the carrying out of an orderly legal system in the SS, how was it guaranteed ?

A By the so-called Reichs discipline.

Q Do I understand you correctly that members of the General SS came under the ordinary German civil courts ?

A That I have just told you.

Q Then in spite of that, there was a system of discipline, that is to say, a certain type of legal system which was applicable to the members of the General SS. Is that correct ?

A That is what I want to say. It was an internal disciplinary system just as is imposed by every civil union. That system was based on the fact that people who had previously been penalized could not enter the official corps and if they were prosecuted, they would have to leave the corps. This principle was the best way of introducing legality and the perpetration of crime was prevented automatically.

The education, the legal edification in this disciplinary system and its application in turn was therefore to run concurrently with the penal system and the penal prosecution

H0198 - 0079

H0198 - 0080

with the Ordinary German legal system, so that the SS would remain free of any dubious elements between the Reichs Minister of Justice and the Reichs Leader SS. An agreement was readhed, according to which there was the Ordinary German Justice on one side to inform the SS if a perpetrator of the SS was discovered and on the other hand, the SS had to inform the Reichs Minister of Justice.

That agreement was looked into and a special zone leader to the military justice was appointed. This had the outcome that, in fact, first of all criminal elements were eliminated from the SS and secondly, perpetrations against laws were, in fact, by the legal system of Germany.

Q Mr. Witness as far as your construction of the sentences you use and relating to your sentences, please be a little more brief. That will be easier for the interpreter.

Why was it that at the beginning of the war special courts were introduced in the Waffen SS? Was this done by anyrchance --

THE PRESIDENT: The Tribunal thinks you are going into this far too much in detail, Dr. Pelckmann.

DR. PELCKMANN: I believe, Your Lordship, that this has not yet been dealt with before the Commission and I thought that, in accordance with the decision of the Tribunal, I might introduce new subjects which are important. I shall, nevertheless, attempt, Mr. President, to be brief.

BY DR. PELCKMANN:

Q You had understood my last question, had you not?

A Yes.

Q Why was it that at the beginning of the war a special legal system, specia courts, were introduced for the Waffen SS? Was it its purpose to cover up crimes?

A These special penal courts were introduced because SS units were used as troop units and thus, for those units, courts martials had to exist. This was carried out by means of a law, not by some order from Himmler and by means of tha law the same legal set-up was introduced which applied to the armed forces. Also by means of that law, the same organization of courts was introduced for the SS which had already been used by the armed forces. It could not be said, therefore, that the introduction of these courts was carried out in order to cover up crimina actions. In fact, it was the exact opposite.

Q But then, it has been emphasized by the Prosecution, that the SS was educat ed for crimes, atrocities and criminal actions. Your testimony contradicts that, your testimony regarding the fight against crimes. Is that not the impression?

A The education in the SS, as far as conduct, decency, right and law was concerned was consistent. Institutions existed and were created which would

H0198-0081

guarantee that their education was carried out in its entirety. Right, law and including international law was taught not only in the Junker schools of the SS but legal lectures were given to the entire units and the chief legal department of the SS, as the central department, issued material to take care of it so th these principles of cleanliness and decency became common property of all the members of the SS. Legal education in the SS, as it was being handled, means precisely the opposite of what has been stated by the Prosecution.

Q Well, then, the Prosecution might say that this strict legal education and fight against crime before and during the war just proves how necessary that was because there was nothing but criminals in the SS. Would they be right if they said that?

A Oh no, they wouldn't be right. Special principles were applied to the SS. It was the duty of the SS to adopt a particularly ethical attitude. Thus, a man in the SS would become more guilty if he would infringe on the legal situation and he would, therefore, be more severely penalized. That is the reason which explains the more severe punishment inflicted upon SS members in comparison to members of the armed forces or German civilians.

Q Himmler was the chief judge, was he not? What position did he occupy? For instance, could he order a court to issue a certain penalty or pass judgement?

A No, Himmler could not do that. He would keep within the legal structure. As the chief judge he used the right given to him by Hitler by decree to squash proceedings in only very few cases. The judge was free to apply the law. The law guaranteed his independance. The findings and sentences of the SS courts came about by means of vote and the principle of majority was applied and interference of the highest judge, that is Himmler, could therefore not be possible, However, the supreme judge had the right to confirm or cancel judgement or sentences, that is to say, he could have a case re-tried if he did not agree with the sentence. But here again the courts of the SS always adhered to the existing laws and asserted their will.

There were sentences that the supreme judge cancelled up to three or four times because he considered the penalty too high or too low and the same findings and sentences were repeated by these courts, if it were inaccordance with law and eventually, in that waym they asserted themselves.

H0198 - 0082

Q Your representation of the legal education and the correct carrying out c the legal system contradicts tl assertion of the Prosecution, namely, that the SS had been designed for purposes for which neither the party nor the state wished to assume responsibility.

A That I have told you about the legal education of the SS conforms with the historical development of the SS and the fact is that the apparently unbrid eable gap between the statement of the Prosecution and my t stimony is due to t fact that the Prosecution simply consider the SS as a single unit from the poin of view of its organization, which it has never been.

Wherever we are concerned with an action of Himmler the SS acted, from the point of view of the Prosecution. Wherever the state executive acted it was the SS which acted, according to the point of view of the Prosecution. These connec ions, from the organizational point of view, did not exist and that is why the allegations of the Prosecution, as far as that is concerned, are not correct.

Q But then, numerous documents were submitted to the previous witness, documents which dealt with crimes committed particularly by members of the Waf SS. It is necessary for me to ask you, therefore, is it right that the Waffen in occupied territories and at the front committed crimes against the civilian population and was it crimes committed systematically and in violation of international agreement, in violation of local penal law and the general principles of penal law of all civilized nations?

A No. There can be no question of that. It is clear that even on the part of the Waffen SS in individual cases there were violations of internation law, just as that happened on the other side, as well. But all these are individual occurrences and there is no system behind it. All these individua perpetrations were prosecuted under the legal system of the SS and the police in the most severemanner. In the chief department of the SS courts there existed an institution, central supervision, as it was called, which guaranteed the correctness of the entire handling of the matter and I can testify from that point of view in this Courtroom, that in such individual cases the courts in every theatre of war and during the entire duration of the war were passing sentences because of murder, looting, assault and rape, ill-treatment and even for killing prisoners of war, in connectionwith which the race or nationality of the person concerned had no influence. All these were individual deeds an

H0198 - 0083

HO198 - 0084

it was not done systematically. This is proved by the statistics of the chief department of the SS; the legal system wasmost strictly applied and criminality varied from .8 per cent at the beginning to 3 per cent at the end of the war and in that way it remains below the normal level.

Q By order of Hitler, dated 13 May, 1941, a document which has been submitted here, there appears to have been a prohibition of the prosecution of such crimes. Is that not a contradiction of your testimony regarding the prosecution of such cases in sentences passed?

A No, that is not a contradiction because that order of Hitler was in reference to cancelling the necessity of prosecuting such cases. Nevertheless, the prosecution of such cases was left to the discretion of the courts. During my entire period of long practice I knew of no cases --

THE PRESIDENT: What is the reference to the order of Hitler?

DR. PELCKMANN: I am afraid at this moment, much as I regret it, I cannot give your Lordship the number. That is the order which came out before the beginning of the Russian campaign and in which it is stated that only for the maintenance of discipline perpetrations of the troops should be prosecuted. If you will permit me to do so, I shall give you the number tomorrow.

Now, Mr. President, I have only one more question.

COLONEL SMIRNOV: Mr. President, I can give you that.

This directive is signed by Keitel and referred to the struggle against the bands and it is USSR 16.

THE PRESIDENT: You say you have only one more question?

DR. PELCKMANN: I have only one more question and then I will have terminated this particular chapter and I will start a new one, if I may do so, in the morning.

Q It has been alleged by the Prosecution, Mr. Withess, that so-called courts martial of the SS and the Police existed under the cover of a legal system and that they were murdering civilian population in occupied territories. What is the conception of the Court Martial of the SS and Police?

A Such Courts Martial of the SS and Police never existed at any time. There were, as I know from my own experience, courts martial in Poland, courts martial which came from the security police. I have now just recently learned that such courts martial existed also in the remaining occupied territories. These were courts martial operated by the Security Police, that is to say, it was an affair entirely of the Police, which had nothing whatever to do with the legal system of the SS and the Police.

Q Thank you so much.

THE PRESIDENT: Well now, will you tell us what are the subjects upon which you are going to question this witness tomorrow?

DR. PELCKMANN: The system of concentration camps and the SS legal system.

THE PRESIDENT: You have been dealing with the SS legal system today. That is the subject you have just concluded. You have told us that the judges of the SS were independant. That is the part of the legal system, isn't it?

DR. PELCKMANN: No, I mean to put special qestions dealing with the legal system in concentration camps. They are practical questions, Your Lordship.

THE PRESIDENT: What questions are you going to deal with?

DR. PELCKMANN: Tomorrow I would like to deal with the concentration camp system and the SS and Police legal system and the connection between the two.

THE PRESIDENT: I have got down that you are going to deal with the concentration camps and the legal system in concentration camps. What else?

DR. PELCKMANN: Notheing else, Your Lordship.

THE PRESIDENT: Well, the Tribunal wishes me to tell you that they think you have been much too long and they will expect you to be much shorter tomorrow morning.

(The Tribunal adjourned until 7 August 1946 at 1000 hours.)